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No. 51] NEW DELHI, SATURDAY, DECEMBER 20, 1986/AGRAHAYANA 29, 1908

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Page is given to this Part in order that it may be filed as
a separate compilation

भाग II—खण्ड 3—उप-खण्ड (II)

PART II—Section 3—Sub-section (II)

(रक्षा मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएँ
Statutory Orders and Notifications issued by the Ministries of the Government of India (other than
the Ministry of Defence)

विधि और न्याय मंत्रालय

(विधि कार्य विभाग)

नई दिल्ली, 2 दिसम्बर, 1986

सूचना

का.आ. 4173.—नोटरीज नियम, 1956 के नियम 6-के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री एन. राजा, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे ग्रेटर बॉम्बे में व्यवसाय करने के लिए नोटरी के रूप में नियुक्त किया जाए।

2. उक्त व्यक्ति को नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपक्ष इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप में मेरे पास भेजा जाए।

[सं. 5 (83)/86 न्या.]

MINISTRY OF LAW & JUSTICE

(Department of Legal Affairs)

New Delhi, the 2nd December, 1986

NOTICE

S.O. 4173.—Notice is hereby given by the Competent Authority in pursuance of rule 6 of the Notaries Rules, 1956, that application has been made to the said Authority, under rule 4 of the said Rules, by Shri N. Raja, Advocate for appointment as a Notary to practise in Greater Bombay.

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(83)/86-Judl.]

नई दिल्ली, 4 दिसम्बर, 1986

सूचना

का.आ. 4174:—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि कु. सुवेदिता इन्द्रावन शाह, एडवोकेट ने उक्त

प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे ग्रेटर बांबे में व्यवसाय करने के लिए नोटरी के रूप में नियुक्त किया जाए।

2. उक्त व्यक्ति का नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप में मेरे पास भेजा जाए।

[सं. एफ 5 (84)/86-न्या.]

New Delhi, the 4th December, 1986

NOTICE

S.O. 4174.—Notice is hereby given by the Competent Authority in pursuance of rule 6 of the Notaries Rules, 1956, that application has been made to the said Authority, under rule 4 of the said Rules, by Miss Suvedita Indravadan Shah, Advocate for appointment as a Notary to practise in Greater Bombay.

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(84)/86-Judl.]

सूचना

का.आ. 4175.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री पी. एल. बोछिवाल (खन्डेलवाल), एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे जयपुर, (राजस्थान) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्त किया जाए।

2. उक्त व्यक्ति का नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप में मेरे पास भेजा जाए।

[सं. एफ 5(85)/86-न्या.]

NOTICE

S.O. 4175.—Notice is hereby given by the Competent Authority in pursuance of rule 6 of the Notaries Rules, 1956, that application has been made to the said Authority, under rule 4 of the said Rules, by Shri P. L. Bochiwal (Khandelwal), Advocate for appointment as a Notary to practise in Jaipur.

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(85)/86-Judl.]

सूचना

का.आ. 4176.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि कु. शोभा उदवदास छाबरिया, एडवोकेट के उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे ग्रेटर बांबे में व्यवसाय करने के लिए नोटरी के रूप में नियुक्त किया जाए।

2. उक्त व्यक्ति को नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप में मेरे पास भेजा जाए।

[सं. एफ 5(87)/86-न्या.]

NOTICE

S.O. 4176.—Notice is hereby given by the Competent Authority in pursuance of rule 6 of the Notaries Rules, 1956, that application has been made to the said Authority under rule 4 of the said Rules, by Miss Shobha Udhavdas Chhavarria, Advocate for appointment as a Notary to practise in Greater Bombay.

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(87)/86-Judl.]

नई दिल्ली, 5 दिसम्बर, 1986

सूचना

का. आ. 4177.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री एम. के. लोधा, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे कलकत्ता में व्यवसाय करने के लिए नोटरी के रूप में नियुक्त किया जाए।

2. उक्त व्यक्ति को नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप में मेरे पास भेजा जाए।

[सं. एफ. 5(86)/86-न्या.]

आर.एन.पोद्दार, सक्षम प्राधिकारी

New Delhi, the 5th December, 1986

NOTICE

S.O. 4177.—Notice is hereby given by the Competent Authority in pursuance of rule 6 of the Notaries Rules, 1956, that application has been made to the said Authority, under rule 4 of the said Rules, by Shri M.K. Lodh, Advocate for appointment as a Notary to practise in Calcutta.

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of the Notice.

[No. F. 5(86)/86-Judl.]

R. N. PODDAR, Competent Authority

सूचना

(लोक प्रतिनिधित्व अधिनियम, 1951 की धारा 116 के अन्तर्गत)

पटना उच्च न्यायालय

(चुनाव अर्जी क्षेत्राधिकार)

चुनाव अर्जी सं. 1, वर्ष 1985

महावीर पासवान

निर्वाचन याची

बनाम

जगजीवन राम तथा अन्य

उत्तरवाद, गया।

का.आ. 4178—चूंकि उपरोक्त वाद में उत्तरवाद सं. 1 श्री जगजीवन राम, पुत्र शोभा राम, निवासी मौहल्ला-चन्दवा, डाकघर-भारा शहर, थाना-भारा शहर, जिला-भोजपुर, मृत्यु पूर्व निवासी 6, कृष्ण मेमन मार्ग, नई दिल्ली, की मृत्यु 6 जुलाई 1986 को मतलाई गई है।

तथा, चूंकि, उपरोक्त निर्वाचन याची की ओर से विद्वान अभिवक्ता के उपरोक्त कथन पर अदालत ने आदेश दिनांकित 12-8-86 के द्वारा, लोक प्रतिनिधित्व अधिनियम 1951 की धारा 116 के अन्तर्गत एक सूचना शासकीय राजपत्र में प्रकाशित करवाने का निर्देश दिया है।

अब, एतद्वारा अधिसूचित किया जाता है कि कोई भी व्यक्ति जो प्रार्थी रहा हो, इस प्रकाशन के 14 दिनों के अन्दर, उपरोक्त मृत उत्तरवाद सं. 1 के स्थान पर प्रतिस्थापित होने के लिए एवं इस आवेदन का विरोध करने के लिए आवेदन दें।

आज दिनांक 25 सितम्बर, 1986।

[पटना उच्च न्या. अनु. 1-7-ए]

पटना उच्च न्यायालय के आदेश से,

जे. कच्छप, उप निबन्धक (वित्तिय)

NOTICE

(Under Section 116 of the Representation of Peoples Act, 1951)

IN THE HIGH COURT OF JUDICIAL AT PATNA

(ELECTION PETITION JURISDICTION)

Election Petition No. 1 of 1985

Mahavir Paswan

..Election Petitioner

Versus.

Jaggiwan Ram & Ors.

..Respondent

S.O. 4178.—Whereas, Sri Jagiwan Ram S/o Sobhi Ram, Mohalla Chandava Post Office-Arrah Town, P.S. Arrah Town Distt. Bhojpur, residing before death at 6, Krishna Memon Marg, New Delhi the respondent no. 1 in the above noted case is stated to be dead on 6th of July, 1986.

And whereas, on the aforesaid statement of the learned counsel, for the Election Petitioner above named, the court vide its order dated 12-8-86 directed notice under section 116 of the Representation of peoples Act, 1951 to be published in the Official Gazette.

Now, it is hereby notified that any person who might have been a petitioner may, within 14 days of this publication,

apply to be substituted in place of the aforesaid deceased respondent no. 1 to oppose the petition.

This, the 25th day of Sept, 1986.

[PHC. Sch. 1-7A]

By Order of the High Court,
KACHCHAP, Dy. Registrar-II

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 3 दिसम्बर, 1986

आदेश

का.आ. 4179:—केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का 25) की धारा 6 के साथ पठित धारा 5 के उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, स्वायत्त औषधि और मन प्रभावी पदार्थ अधिनियम, 1985 (1985 का 61) की धारा 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 और 32 के अधीन दण्डनीय अपराधों के अन्वेषण के लिए आन्ध्र प्रदेश, केरल, कर्नाटक, बिहार, नागालैंड और हिमाचल प्रदेश सरकारों का सहमति से, दिल्ली विशेष पुलिस स्थापन के सदस्यों का शक्तियों और अधिकारिता का विस्तार सम्पूर्ण आन्ध्र प्रदेश, केरल, कर्नाटक, बिहार, नागालैंड और हिमाचल प्रदेश राज्यों पर करता है।

[संख्या 228/30/85-ए.बी.डी.-2]

MINISTRY OF PERSONNEL PUBLIC GRIEVANCECS & PENSIONS

(Department of Personnel & Training)

New Delhi, the 3rd December, 1986

ORDER

S.O. 4179.—In exercise of the powers conferred by sub-section (1) of section 5, read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the Governments of Andhra Pradesh, Kerala, Karnataka, Bihar, Nagaland and Himchal Pradesh hereby extends the powers and jurisdiction of the members of Delhi Special Police Establishment to the whole of the States of Andhra Pradesh, Kerala, Karnataka, Bihar, Nagaland and Himachal Pradesh for the investigation of offences punishable under sections 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 and 32 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985).

[No 228/30/85-AVD. II]

नई दिल्ली, 5 दिसम्बर, 1986

का.आ. 4180:—केन्द्रीय सरकार, दण्ड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय अन्वेषण ब्यूरो के निम्नलिखित लोक अभियोजकों को, भारत के किसी भी राज्य या संघ राज्य क्षेत्र में, जिसको पूर्वोक्त धारा के उपबन्ध लागू होते हैं, विधि द्वारा स्थापित विचारण न्यायालयों में दिल्ली विशेष पुलिस स्थापन द्वारा संस्थित

मामलों के और विधि द्वारा स्थापित पुनरीक्षण या अपील न्यायालयों में इन मामलों से उत्पन्न होने वाले अपराधों, पुनरीक्षणों या अन्य मामलों के संचालन के लिए विशेष लोक अभियोजक नियुक्त करता है।—

1. श्री जसवंत सिंह
2. श्री एस.के. गुप्ता
3. श्री बी.के. सिन्हा
4. श्री ई.जे. प्रार. डेनियल
5. श्री ठाकुर दास
6. श्री जय सिंह तेरांग
7. श्री आई.डी. वैद्य

[संख्या 225/37/86-ए.वी.ड.०(II)]

जी. स. तारामन, अवर सचिव

New Delhi, the 5th December, 1986

S.O. 4180.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974) the Central Government hereby appoints the following Public Prosecutors of the Central Bureau of Investigation as Special Public Prosecutors for the conduct of cases instituted by Delhi Special Police Establishment in trial courts, appeals, revisions or other matters arising out of these cases in revisional or appellate Courts, established by law in any State or Union Territory of India to which the provisions of the aforesaid sections apply :—

1. Shri Jaswant Singh
2. Shri S. K. Gupta
3. Shri B. K. Sinha
4. Shri E. J. R. Daniel
5. Shri Thakur Dass
6. Shri Joy Singh Terang
7. Shri I. D. Vaid.

[No. 225/37/86-AVD. II]

G. SITARAMAN, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 21 अक्टूबर, 1986

आयकर

का.आ. 4181.—इस कार्यालय की दिनांक 27-9-85 की अधिसूचना सं. 6446 (फा. सं. 203/23/83-आ.क.नि.-II) के सिलसिले में, सर्वसाधारण का जानकारी के लिए एतद्वारा अधिसूचित किया जाता है कि विहित प्राधिकारों, अर्थात् वैज्ञानिक और औद्योगिक अनुसंधान विभाग नई दिल्ली, ने निम्नलिखित संस्था की आयकर नियम, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 को उपधारा (i) के खंड (iii)/पै.स/(त.न) के प्रयोजनों के लिए "संस्था" प्रवर्ग के अधीन निम्नलिखित शर्तों पर अनुमोदित किया है:—

- (i) यह कि इंस्टीट्यूट ऑफ मार्केटिंग मैनेजमेंट, नई दिल्ली अपने वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पृथक लेखा रखेगा।
- (ii) यह कि उक्त संस्थान अपने वैज्ञानिक अनुसंधान संबंधी क्रियाकलापों को वार्षिक विवरणी, विहित

प्राधिकार का प्रत्येक वित्तीय वर्ष के संबंध में प्रति वर्ष 30 अप्रैल तक ऐसे प्रारूप में प्रस्तुत करेगा जो इन प्रयोजनों के लिए अधिकृत किया जाए और उसे सूचित किया जाए।

(iii) यह कि उक्त संस्थान अपने कुल आय तथा व्यय दर्शाते हुए अपने संचरित वार्षिक लेखों का तथा अपने परिसंपत्तियां, देनदारियां दर्शाते हुए तुलन-पत्र का एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारों को प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक को एक-एक प्रति संबंधित आयकर आयुक्त को भेजेगा।

(iv) यह कि उक्त संस्थान केंद्रीय प्रत्यक्ष कर बोर्ड, वित्त मंत्रालय (राजस्व-विभाग), नई दिल्ली की अनुमोदन का समाप्ति से तीन माह पूर्व और अवधि बढ़ाने के लिए आवेदन करेगा। आवेदन प्रस्तुत करने में कितने प्रकार का देरी होने पर प्रार्थना-पत्र रद्द कर दिया जाएगा।

संस्था

"इंस्टीट्यूट ऑफ मार्केटिंग मैनेजमेंट, 62-एफ, सुजान सिंह पार्क, नई दिल्ली-110013"।

यह अधिसूचना 1-4-86 से 31-3-88 तक का प्रवर्ध के लिए प्रभाव है।

[सं. 6975 (फा.सं. 203/40/86-आ.क.नि.-II)]

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 21st October, 1986

INCOME-TAX

S.O. 4181.—In continuation of this Office Notification No. 6446 (F. No. 203/23/83-ITA.II), dated 27-9-1985. It is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific & Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (iii) of sub-section (1) of Section 35 (Thirty Five/One/Three) of the Income-tax Act, 1961 read with Rule 6 of the Income-tax Rules, 1962 under the category "Institution" subject to the following conditions :—

- (i) That the Institute of Marketing Management, New Delhi will maintain a separate account of the sums received by it for scientific research.
- (ii) That the said Institute will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 30th April each year.
- (iii) That the said Institute will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their total income and expenditure and Balance Sheet showing its assets liabilities with a copy of each of these documents to the concerned Commissioner of Income-tax.
- (iv) That the said Institute will apply to Central Board of Direct Taxes, Ministry of Finance, (Department of Revenue), New Delhi, 3 months in advance before the expiry of the approval for further extension. Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION

"Institute of Marketing Management, 62-F, Sujan Singh Park, New Delhi-110 013.

This Notification is effective for a period from 1-4-1986 to 31-3-1988.

[No. 6975 (F. No. 203/40/86-ITA II)]

प्रायकर

का.भा. 4182:—सर्वसाधारण का जानकारी के लिए एतद्वारा अधिसूचित किया जाता है कि वित्त मंत्रालय (राजस्व और बामा विभाग) को दिनांक 13-11-1973 का अधिसूचना संख्या 498 (फा.सं. 203/61/73-भा.क. नि.-2) द्वारा निम्नलिखित संस्थान को प्रायकर अधिनियम 1961 का धारा 35 का उपधारा (i) के खंड (ii) के तहत स्थायी आधार पर दिया गया अनुमोदन निम्नलिखित तारीख पर 31-3-1987 तक वैध समायोजन अनुमोदन में रखा गया है:—

- (i) यह कि इण्डियन एकेडमी ऑफ पैडियाट्रिक्स, बम्बई अपने वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पृथक लेखा रखेगा।
- (ii) यह कि उक्त संस्थान अपने वैज्ञानिक अनुसंधान संबंधी क्रियाकलापों को वार्षिक विवरणों, विहित प्राधिकारों को प्रत्येक वित्तीय वर्ष के संबंध में प्रति वर्ष 30 अप्रैल तक ऐसे प्रारूप में प्रस्तुत करेगा जो इस प्रयोजन के लिए अधिकृत किया जाए और उसे सूचित किया जाए।
- (iii) यह कि उक्त संस्थान अपनी कुल आय तथा व्यय दर्शाते हुए अपने संपरोक्षित वार्षिक लेखों को तथा अपनी परिसंपत्तियां, देनदारियां दर्शाते हुए तुलन-पत्र को एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारों को प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक को एक-एक प्रति संबंधित प्रायकर आयुक्त को भेजेगा।
- (iv) यह कि उक्त संस्थान केंद्रीय प्रत्यक्ष कर बोर्ड, वित्त मंत्रालय (राजस्व विभाग) नई दिल्ली को अनुमोदन का समाप्ति से तीन माह पूर्व और अवधि बढ़ाने के लिए आवेदन करेगा। आवेदन प्रस्तुत करने में किसी प्रकार की देरी होने पर प्राथमिकता पर रद्द कर दिया जाएगा।

संस्था

"इण्डियन एकेडमी ऑफ पैडियाट्रिक्स, कैलाश दर्शन कनेडः ब्रिज, बम्बई-400007"।

[सं. 6977 (फा.सं. 203/206/86-भा.क.नि.-II)]

S.O. 4182.—It is hereby notified for general information that the approval granted on perpetual basis to the following Institution under clause (ii) of sub-section (1) of Section 35 of the Income-tax Act, 1961, vide Ministry of Finance (Department of Revenue and Insurance) Notification No. 498 (F. No. 203/61/73-ITA.II), dated 13-11-1973 is hereby converted into time bound valid upto 31-3-1987 subject to the following conditions:—

- (i) That the Indian Academy of Pediatrics, Bombay

will maintain a separate account of the sums received by it for scientific research.

- (ii) That the said Institute will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 30th April each year.
- (iii) That the said Institute will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their total income and expenditure and Balance Sheet showing its assets liabilities with a copy of each of these documents to the concerned Commissioner of Income-tax.
- (iv) That the said Institute will apply to Central Board of Direct Taxes, Ministry of Finance, (Department of Revenue), New Delhi, 3 months in advance before the expiry of the approval for further extension. Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION

"Indian Academy of Pediatrics, Kallash Darshan, Kennedy Bridge, Bombay-400 007.

[No. 6977 (F. No. 203/206/86-ITA.II)]

का.भा. 4183:—सर्वसाधारण का जानकारी के लिए एतद्वारा अधिसूचित किया जाता है कि विहित प्राधिकारों, अर्थात् वैज्ञानिक और औद्योगिक अनुसंधान विभाग नई दिल्ली, ने निम्नलिखित संस्था को प्रायकर नियम 1961 के नियम 6 के साथ पठित प्रायकर अधिनियम 1961 का धारा 35 का उपधारा (i) के खंड (ii) (पैत/स/एक/दो) के प्रयोजनों के लिए "संगम" प्रयोग के अधीन निम्नलिखित शर्तों पर अनुमोदित किया है:—

- (i) यह कि चारुतार आरोग्य मण्डल मेडिकल रिसर्च सोसायटी, धस्लम, विधाननगर अपने वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पृथक लेखा रखेगा।
- (ii) यह कि उक्त संस्थान अपने वैज्ञानिक अनुसंधान संबंधी क्रियाकलापों को वार्षिक विवरणों, विहित प्राधिकारों को प्रत्येक वित्तीय वर्ष के संबंध में प्रति वर्ष 30 अप्रैल तक ऐसे प्रारूप में प्रस्तुत करेगा जो इस प्रयोजन के लिए अधिकृत किया जाए और उसे सूचित किया जाए।
- (iii) यह कि उक्त संस्थान अपनी कुल आय तथा व्यय दर्शाते हुए अपने संपरोक्षित वार्षिक लेखों को तथा अपनी परिसंपत्तियां, देनदारियां दर्शाते हुए तुलन-पत्र को एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारों को प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक को एक-एक प्रति संबंधित प्रायकर आयुक्त को भेजेगा।
- (iv) यह कि उक्त संस्थान केंद्रीय प्रत्यक्ष कर बोर्ड, वित्त मंत्रालय (राजस्व-विभाग) नई दिल्ली को अनुमोदन की समाप्ति से तीन माह पूर्व और अवधि बढ़ाने के लिए आवेदन करेगा। आवेदन प्रस्तुत करने में किसी प्रकार की देरी होने पर प्राथमिकता पर रद्द कर दिया जाएगा।

संस्था

"चारुतार आरोग्य मण्डल वैद्यकीय रिसर्च
सोसायटी, वल्लभ विद्यानगर।"

यह अधिसूचना 1-8-1986 से 31-3-1988 तक का
प्रवधि के लिए प्रभावी है।

[सं. 6978 (फा.सं. 203/160/86-आ.क.नि.-II)]

S.O. 4183.—It is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific & Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with Rule 6 of the Income-tax Rules, 1962 under the category "Association" subject to the following conditions:—

- (i) That the Charutar Arogya Mandal Medical Research Society Vallabh Vidyanagar will maintain a separate account of the sums received by it for scientific research.
- (ii) That the said Institute will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 30th April each year.
- (iii) That the said Institute will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their total income and expenditure and Balance Sheet showing its assets liabilities with a copy of each of these documents to the concerned Commissioner of Income-tax.
- (iv) That the said Institute will apply to Central Board of Direct Taxes, Ministry of Finance, (Department of Revenue), New Delhi, 3 months in advance before the expiry of the approval for further extension. Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION

"Charutar Arogya Mandal Medical Research Society,
Vallabh Vidyanagar."

This Notification is effective for a period from 1-8-1986 to 31-3-1988.

[No 6978 (F. No. 203/160/86-ITA.II)]

नई दिल्ली, 30 अक्टूबर, 1986

शुद्धिपत्र

का. भा. 4184:—इस कार्यालय की दिनांक 26-8-1986 की अधिसूचना सं. 6891 (फा.सं. 203/129/86-आ.क.नि.-II) का आंशिक संशोधन करते हुए, सर्व साधारण की जानकारी के लिए एतद्वारा अधिसूचित किया जाता है कि उपरोक्त अधिसूचना की वैधता की अवधि को "1-4-1986 से 31-3-1987" के स्थान पर "1-4-1986 से 31-3-1989" पढ़ा जाए।

[सं. 6987 (फा.सं. 203/129/86-आ.क.नि.-II)]

ए. के. फोतेदार, अव्वर सचिव

New Delhi, the 30th October, 1986

CORRIGENDUM

S.O. 4184.—In partial modification of this Office Notification No. 6891 (F. No. 203/129/86-ITA.II) dated 26-8-1986, it is hereby notified for general information that the period of validity of the said Notification be read as 1-4-1986 to 31-3-1989 for "1-4-1986 to 31-3-1987".

[No. 6987 (F. No. 203/129/86-ITA.II)]
A. K. FOTEDAR, Under Secy.

केन्द्रीय प्रत्यक्ष कर बोर्ड

नई दिल्ली, 3 अक्टूबर, 1986

का.भा. 4185:—आयकर अधिनियम, 1961 (1961 का 43) की धारा 121-क की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और पूर्ववर्ती आदेशों में संशोधन करते हुए, केन्द्रीय प्रत्यक्ष कर बोर्ड एतद्वारा निदेश देता है कि नीचे दी गई अनुसूची के स्तम्भ (2) में विनिर्दिष्ट अधिकार क्षेत्र के आयकर आयुक्त (अपॉल), स्तम्भ (3) और स्तम्भ (4) की तत्संबन्धी प्रविष्टियों में विनिर्दिष्ट आयकर, वार्डें, परिमंडलों, जिलों और रेंजों में आयकर अथवा अतिकर या ब्याज दर से निर्धारित ऐसे व्यक्तियों के बारे में, जो आयकर अधिनियम, 1961 की धारा 246 की उपधारा (2) के खंड (क) से (ज), कम्पनी (लाभ) अतिकर अधिनियम, 1964 (1964 का 7) की धारा 11 की उपधारा (1) तथा ब्याज कर अधिनियम, 1974 (1974 का 45) की धारा 15 की उपधारा (1) में उल्लिखित किसी भी आदेश से व्यक्ति हुए हैं, और ऐसे व्यक्तियों या व्यक्तियों की श्रेणियों की बाबत भी, जिनके लिए बोर्ड ने आयकर अधिनियम, 1961 की धारा 246 की उपधारा (2) के खंड (1) की उपबन्धों के अनुसार निदेश दिया है या भविष्य में निदेश दें, कार्य निर्वहण करेंगे।

संशोधित अनुसूची

क्रम सं०	अधिकार क्षेत्र वार्डें प्रधान कार्यालय	आयकर परिमंडल तथा वार्डें	निरक्षक सहायक आयकर आयुक्त का रेंज
1	2	3	4
1.	आयकर आयुक्त (अपॉल) - I अहमदाबाद	(1) परिमंडल-1 अहमदाबाद (2) केन्द्रीय परिमंडल अहमदाबाद	नि०स० आयुक्त, क०नि० रेंज-I, अहमदाबाद नि०स० आयुक्त क०नि० रेंज-III, अहमदाबाद

1	2	3	4
		(3) परिमंडल-III, अहमदाबाद	नि.सं.आयुक्त, क.नि. रेंज-III, अहमदाबाद
		(4) हिम्मतनगर परिमंडल	नि.सं.आयुक्त, क.नि. रेंज-III, अहमदाबाद ।
		(5) मोदासा परिमंडल	
		(6) पालनापुर परिमंडल	
2. आयकर आयुक्त (अप.ल)-II अहमदाबाद		(1) परिमंडल-5, अहमदाबाद	नि.सं.आयुक्त, क.नि. रेंज-V, अहमदाबाद
		(2) पाटन परिमंडल	
		(3) मेहसाना परिमंडल	नि.सं.आयुक्त, क.नि. रेंज-IX, अहमदाबाद
		(4) कंपनो परिमंडल-III	
		(5) कंपनो परिमंडल-4, अहमदाबाद	
		(6) कंपनो परिमंडल-9, अहमदाबाद	
		(7) कंपनो परिमंडल-12, अहमदाबाद	
		(8) कंपनो परिमंडल-13, अहमदाबाद	
		(9) कंपनो परिमंडल-14, अहमदाबाद	
3. आयकर आयुक्त (अप.ल)-III अहमदाबाद		(1) सुरेन्द्रनगर परिमंडल	नि.सं.आयुक्त, क.नि. रेंज-VI, अहमदाबाद
		(2) धवसाधिक परिमंडल, अहमदाबाद	
		(3) वापसा (रिफंड) परिमंडल, अहमदाबाद	
4. आयकर आयुक्त (अप.ल)-IV अहमदाबाद		(1) कं. परिमंडल-I, अहमदाबाद	नि.सं.आयुक्त, क.नि. रेंज-VII अहमदाबाद
		(2) कं. परि.-II, अहमदाबाद	
		(3) कं. परि.-V, अहमदाबाद	
		(4) कं. परि.-VI, अहमदाबाद	
		(5) कं. परि.-VII, अहमदाबाद	
		(6) कं. परि.-VIII, अहमदाबाद	
		(7) कं. परि.-IX, अहमदाबाद	
		(8) कं. परि.-X, अहमदाबाद	
		(9) कं. परि.-XV, अहमदाबाद	
		(10) आयकर अधिकारी, अनिवास परिमंडल, अहमदाबाद ।	
		(11) परि.-IV, अहमदाबाद	नि.सं.आयुक्त, क.नि. रेंज-VI, अहमदाबाद
		(12) परि.-VI (वेतन) अहमदाबाद	
5. आयकर आयुक्त (अप.ल)-IV अहमदाबाद		(1) सर्वेक्षण परि., अहमदाबाद	नि.सं.आयुक्त, क.नि. रेंज-IX, अहमदाबाद
		(2) विशेष परि.-I/II/III, अहमदाबाद	नि.सं.आयुक्त, क.नि. रेंज-IV, अहमदाबाद
		(3) संपदा शुल्क परि., अहमदाबाद	नि.सं.आयुक्त, क.नि. रेंज-II, „
		(4) परि.-II, अहमदाबाद	नि.सं.आयुक्त, क.नि. रेंज-II, „
		(5) परि.-VIII, अहमदाबाद	नि.सं.आयुक्त क.नि. रेंज-VIII, „
		(6)	नि.सं.आयु. (क.नि.)-I, „
		(7)	नि.सं.आयु. (क.नि.)-II अहमदाबाद
		(8)	नि.सं.आयु. (क.नि.)-III अहमदाबाद
		(9)	नि.सं.आयु. (क.नि.)-IV अहमदाबाद
		(10)	नि.सं.आयु. (क.नि.)-V अहमदाबाद

अहमदाबाद स्थित कोई परिमंडल अथवा रेंज, जिसे इस आदेश के तहत विशेष रूप से किस अन्य आयुक्त (अप.ल) को नहीं सौंपा गया ।

2. जहाँ कोई आयकर परिमंडल, वार्ड अथवा जिला अथवा उसके कोई भाग इस अधिसूचना द्वारा एक अधिकार क्षेत्र से किसी अन्य अधिकार क्षेत्र में अन्तर्गत कर दिया गया हो, वहाँ उस आयकर परिमंडल वार्ड अथवा जिला अथवा उसके किसी भाग में किए गए निर्धारणों से उत्पन्न होने वाला और इस अधिसूचना की तारीख से तत्काल पूर्व, अधिकार क्षेत्र के उस आयकर आयुक्त (अपील) के समक्ष विचाराधीन पड़ा अपील, जिसके अधिकार क्षेत्र में उक्त आयकर परिमंडल वार्ड अथवा जिला अथवा उसका कोई भाग अन्तर्गत किया गया हो, इस अधिसूचना के लागू होने की तारीख से अधिकार क्षेत्र के उस आयकर आयुक्त (अपील) को अन्तर्गत की जाएगी और उसके द्वारा निपटाई जाएगी जिसके अधिकार क्षेत्र में उक्त परिमंडल वार्ड अथवा जिला अथवा उसका कोई भाग अन्तर्गत किया गया है।

3. यह अधिसूचना 1-10-1986 से लागू होगी।

[सं. 8951/86 (फा.सं. 261/26/86-प्र.क.न्या.)]

ए.के. गर्ग, अवर सचिव
केन्द्रीय प्रत्यक्ष कर बोर्ड

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 3rd October, 1986

S. O. 4383.—In exercise of the powers conferred by sub-section (1) of Section 121A of the Income-tax Act, 1961 (43 of 1961) and in modification of earlier orders, the Central Board of Direct Taxes, hereby directs that the Commissioners of Income-tax (Appeals) of the Charges specified in Column (2) of the Schedule below, shall perform their functions in respect of such persons as assessed to Income-tax or Sur-tax or Interest-tax in the Income-tax Wards, Circles, Districts and Ranges Specified in the corresponding entries in column (3) and column (4) thereof as are aggrieved by any of the orders mentioned in clauses (a) to (h) of sub-section (2) of Section 246 of the Income-tax Act, 1961 in sub-section (1) of Section 11 of Companies (Profits) Sur-tax Act, 1964 (7 of 1964) and in sub-section (1) of Section 15 of the Interest Tax Act, 1974 (45 of 1974) and also in respect of such person or classes of persons as the Board has directed or may direct in future in accordance with the provisions of clause (1) of sub-section (2) of Section 246 of the Income-tax Act, 1961.

REVISED SCHEDULE

Sl. Charges with Head Quarters No.	Income-tax Circles and Wards	Range of IAC of Income-tax
1	3	4
1. Commissioner of Income-tax (Appeals)-I, Ahmedabad.	(1) Circle-I, Ahmedabad (2) Central Circles, Ahmedabad (3) Circle-III, Ah'bad (4) Himatnagar Cir. } (5) Modasa Cir. } (6) Palanpur Cir. }	IAC, AR. I, Ah'bad IAC (Central) I/II, Ahmedabad. IAC, AR. III, Ah'bad.
Commissioner of Income-tax, (Appeals)-II, Ahmedabad.	(1) Cir. V, Ah'bad. } (2) Patan Cir. } (3) Mehsana Cir. } (4) Company Cir. III } (5) Co. Cir. IV, Ah'bad } (6) Co. Cir. XI, Ah'bad } (7) Co. Cir. XII, Ah'bad } (8) Co. Cir. XIII, Ah'bad } (9) Co. Cir. XVI, Ah'bad }	IAC, AR. V, Ahmedabad. IAC, AR. IX, Ahmedabad.
3. Commissioner of Income-tax, (Appeals)-III, Ahmedabad.	(1) Surendranagar Cir. } (2) Professional Circles, A'bad } (3) Refund Cir, A'bad }	IAC, AR. VI, Ahmedabad.
4. Commissioner of Income-tax, (Appeals)-IV, Ahmedabad.	(1) Co. Cir. I, A'bad } (2) Co. Cir. II, A'bad } (3) Co. Cir. V, A'bad } (4) Co. Cir. VI, A'bad } (5) Co. Cir. VII, A'bad } (6) Co. Cir. VIII, A'bad } (7) Co. Cir. IX, A'bad } (8) Co. Cir. X, A'bad } (9) Co. Cir. XV, A'bad } (10) ITO, Non-Resident Cir., Ahmedabad }	IAC, AR. VII, Ahmedabad.
	(11) Cir. VI, A'bad } (12) Cir. VI, (Salaries) Ahmedabad }	IAC, AR. IV, Ahmedabad

1	2	4
5. Commissioner of Income-tax, (Appeals)-V, Ahmedabad	(1) Survey Cir, Ahmedabad (2) Spl. Circles, I/II/III, Ahmedabad (3) Estate Duty Circles Ahmedabad (4) Cir. II, Ahmedabad (5) Cir. VIII, Ahmedabad (6) (7) (8) (9) (10)	IAC, AR. IX, Ahmedabad. IAC, AR. IX, Ahmedabad. IAC, AR. II, Ahmedabad. IAC, AR. II, Ahmedabad. IAC, AR. VIII, Ahmedabad. IAC, (Asstt)-I, Ahmedabad. IAC (Asstt)-II, Ahmedabad. IAC (Asstt)-III, Ahmedabad. IAC (Asstt)-IV, Ahmedabad. IAC (Asstt)-V, Ahmedabad.
	Any circle or Range at Ahmedabad not specifically as signed to any other CIT (Appeals) under this order.	

2. Whereas an Income-tax Circle, Ward or District or part thereof stands transferred by this Notification from one charge to another charge, appeals arising out of the assessments made in that Income-tax Circle, Ward or District or part thereof, and pending immediately before the date of this Notification before the Commissioner of Income-tax (Appeals) of the Charge from whom the Income-tax Circle, Ward or District, or part thereof, is transferred, shall from the date this Notification takes effect be transferred to and dealt with by the Commissioner of Income-tax (Appeals) of the charge to whom the said Circle, Ward or District or part thereof is transferred.

3. This Notification shall take effect from 1-10-1986.

[No. 6951/86. (F. No. 261/26/86-IT)]

A. K. GARG, Under Secy.
Central Board of Direct Taxes

(राजस्व विभाग)]

नई दिल्ली, 23 अक्टूबर, 1986

आयकर

का. आ. 4186.—आयकर अधिनियम, 1961 (1961 का 43) को धारा 80-ड की उपधारा (1) के खण्ड (ii) द्वारा प्रप्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा उक्त खण्ड के प्रयोजनों में निम्नलिखित ऋण पत्रों को विनिर्दिष्ट करती है, अर्थात्:—

से. 0. नेशनल हाइड्रोइलेक्ट्रिक पावर कॉर्पोरेशन लि. द्वारा जारी किए गए "7 वर्षीय" 14 प्रतिशत आरक्षित विमोच्य "दूरसंचरित्वर्तीय ऋण पत्र"।

[सं. 6979/का. सं. 178/152/86—आ. क. नि.—1]

रोशन सहाय, अवर सचिव

(Department of Revenue)

New Delhi, the 23rd October, 1986

INCOME-TAX

S.O. 4186.—In exercise of the powers conferred by clause (ii) of sub-section (1) of Section 80-L of the Income-Tax Act, 1961 (43 of 1961), the Central Government hereby specifies the following debentures for the purpose of the said clause, namely:—

7 Year "14 per cent Secured Redeemable Non-convertible Bonds (A-Series)" issued by M/s. National Hydro-electric Power Corporation Limited.

[No. 6979/F. No. 178/152/86-IT(A-I)]

ROSHAN SAHAY, Under Secy.

केन्द्रीय उत्पाद शुल्क समाहृतलय

अधिसूचना सं. 9/86

हैदराबाद, 31 अक्टूबर, 1986

का. आ. 4187.—केन्द्रीय उत्पाद शुल्क नियमावली, 1944 के नियम 5 और इस कार्यालय की 23 अप्रैल, 1986 की 1244 GI/86—2

अधिसूचना सं. 4/86 में आंशिक संशोधनों द्वारा मुद्रा में प्रप्त शक्तियों का प्रयोग करते हुए मैं सहायक समाहृतियों में मेरे द्वारा प्रत्यायोजित शक्तियों, जहाँ तक नियम 57-च (i) (ii) का संबंध है, रेंज अधीक्षकों में उनके अपने कार्यक्षेत्र में प्रयोग के लिए प्रत्यायोजित करता हूँ।

[सी. सं. 4/16/15/86—एम.पी.]

आर. गोपालनाथन, समाहर्ता

OFFICE OF THE COLLECTOR OF CENTRAL EXCISE
NOTIFICATION NO. 9/86

Hyderabad, the 31st October, 1986

S.O. 4187.—In exercise of the powers conferred on me by Rule 5 of Central Excise Rules, 1944 and in partial modification of this office Notification No. 4/86, dated the 23rd April, 1986, the powers delegated by me to the Assistant Collector of Central Excise, as far as rule 57-F(1) (ii) is concerned is delegated to the Range Superintendents to be exercised within their respective jurisdiction.

[C. No. IV/16/15/86-MP]

R. GOPALNATHAN, Collector.

(शुल्क विभाग)

नई दिल्ली, 9 दिसम्बर, 1986

का. आ. 4188.—सरकारी भवन (अनधिकृत दखलदार वेधखली) अधिनियम 1971 (1971 का 40) को धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा नीचे दी गई सारणी के कालम 1 में उल्लिखित अधिकारियों को सरकार का राजपत्रित अधिकारी नियुक्त करती है जो उक्त अधिनियम के प्रयोजन के लिए सम्पदा अधिकारी होंगे और प्रदत्त शक्तियों का प्रयोग करेंगे तथा उक्त सूची के कालम (2) में संगत प्रविष्टि में निर्दिष्ट सरकारी भवनों के संबंध में अपने क्षेत्राधिकार की स्थानीय सीमाओं के भीतर उक्त अधिनियम द्वारा अथवा के अन्तर्गत सीधे गये दायित्वों का निष्पादन करेंगे।

सारणी

(Department of Expenditure)

New Delhi, the 9th December, 1986

अधिकारी का पदनाम	सरकार के नवनीत क्षेत्रों और क्षेत्राधिकार के स्थानों के संसाधन
(1)	(2)
1. वरिष्ठ उच्च महलेखाकार अथवा उच्च महलेखाकार (प्रशासन) महलेखाकार का कार्यालय (लेखा और हकदार) -I महाराष्ट्र बम्बई-400020	महलेखाकार के प्रशासनिक नियंत्रण के अधीन सरकार अथवा (लेखा और हकदार) -I महाराष्ट्र, बम्बई-400020

[का. सं. सी. 11021/2/86-ई. ज. I]

डा. त्र्यम्बकवर, अवर सचिव,

THE TABLE

Designation of the officer	Categories of public Premises & local limits of jurisdiction
(1)	(2)
1. Senior Deputy Accountant General or Deputy Accountant General (Admn.), Office of the Accountant General (Accounts and Entitlement) -I, Maharashtra, Bombay-400020.	Public premises under the administrative control of the Accountant General (Accounts and Entitlement)-I, Maharashtra, Bombay-400020.

[F. No. C. 11021/2/86-EG. I]
D. THYAGESWARAN, Under Secy.ऊर्जा मंत्रालय
(नियंत्रण विभाग)

नई दिल्ली, 3 दिसम्बर, 1986

गुप्तपत्र

का. आ. 4189:—भारत के राजपत्र तारीख 14 जून, 1986 के भाग II, खंड 3, उपखंड (ii) में पृष्ठ 2476 से 2477 पर प्रकाशित भारत सरकार के ऊर्जा मंत्रालय, कोयला विभाग की अधिपूवता का. आ. सं. 2296 तारीख 28 मई, 1986 में—

पृष्ठ 2476 पर—अधिपूवता में—

(1) "कोयला इस्टेट" के स्थान पर "कोल इस्टेट" पढ़िए। अनुसूची में—

(2) क्रम सं. 1 में क्षेत्र हेक्टरों में स्तंभ के नीचे "455.00" के स्थान पर "450.00" पढ़िए।

(3) क्रम सं. 4 में ग्राम का नाम स्तंभ के नीचे "आशेवाडा" के स्थान पर "आंगेवाडा" पढ़िए।

[सं. 43015/4/86-सी ए]

समय सिंह, अवर सचिव

स्वास्थ्य और परिवार कल्याण मंत्रालय

नई दिल्ली, 1 दिसम्बर, 1986

का. आ. 4190:—केन्द्रीय सरकार, औषधी और प्रसाधन सामग्री अधिनियम, 1940 (1940 का 23) की धारा 20 को उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए,—

1. श्री एस.सी. गुप्ता ज्येष्ठ वैज्ञानिक अधिकारी-I (भेषज गुणविज्ञान) केन्द्रीय भारतीय भेषज प्रयोगशाला, गाजियाबाद, और
2. डा. जी.सी. श्रीवास्तव, ज्येष्ठ वैज्ञानिक अधिकारी-I (सूक्ष्म-जीवविज्ञान) केन्द्रीय भारतीय भेषज प्रयोगशाला, गाजियाबाद

को निम्नलिखित वर्ग की औषधियों की बाबत सम्पूर्ण भारत के लिए सरकारी विश्लेषक नियुक्त करती है, अर्थात्:—
निम्नलिखित वर्ग की औषधियों को छोड़कर सभी वर्ग की औषधियाँ अर्थात्:—

1. सेरा
2. इंजेक्शन के लिए आशयित सिरम/प्रोटीनों का घोल
3. बैक्सीन
4. टाक्सिन
5. एंटीजन
6. एंटीटाक्सिन
7. निर्जमित शल्य चिकित्सा लिंगेचर और निर्जमित सूतर
8. जीवाणु भोजी
9. पशु चिकित्सा के उपयोग के लिए एंटीसेरा
10. पशु चिकित्सा के उपयोग के लिए बैक्सीन
11. पशु चिकित्सा के उपयोग के लिए टाक्सोइड
12. पशु चिकित्सा के उपयोग के लिए डायग्नोस्टिक एंटीजन।

[सं. एक्स 1-1014/1/86-डी. एम. एस. एंड प. एफ. ए.]

श्रीमता ए. किशोर, अवर सचिव

MINISTRY OF HEALTH & FAMILY WELFARE

New Delhi, the 1st December, 1986

S.O. 4190.—In exercise of the powers conferred by sub-section (2) of section 20 of the Drugs and Cosmetics Act,

1940 (23 of 1940), the Central Government hereby appoints,—

1. Sh. S. C. Gupta, Senior Scientific Officer I (Pharmacology) Central Indian Pharmacopoeia Laboratory, Ghaziabad and,
2. Dr. G. C. Srivastava, Senior Scientific Officer I (Microbiology) Central Indian Pharmacopoeia Laboratory Ghaziabad,

to be Government Analysts for the whole of India in respect of the following classes of drugs, namely :—

All classes of drugs, except the classes of drugs mentioned below, namely :—

1. Sera
2. Solution of Serum/proteins intended for injection.
3. Vaccines
4. Toxins
5. Antigens
6. Anti-toxins
7. Sterilized surgical ligature and sterilized suture
8. Bacteriophages
9. Anati Sera for veterinary use
10. Vaccines for veterinary use
11. Toxids for veterinary use
12. Diagnostic Antigens for Veterinary use

[No. X. 11014/1/86-DMS & PFA]
SMT. A. KISHORE, Under Secy.

अंतरिक्ष विभाग

बंगलूर, 8 अक्टूबर, 1986

का. आ. 4191:—केन्द्रीय सरकार, सरकारी स्थान (अप्रधिकृत अधिभोगियों की वेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत के राजपत्र, भाग-2, खंड-3, उपखंड (ii), तारीख 5 जून, 1982 में प्रकाशित भारत सरकार के अंतरिक्ष विभाग की अधिसूचना सं. का. आ. 2106, तारीख 30 अप्रैल, 1982 को उन बातों के सिवाय, जिन्हें ऐसे अधिकरणों से पहले किया गया है या करने का लोप किया गया है, अधिकृत करते हुए नीचे की सारणी के स्तम्भ (1) में उल्लिखित अधिकारियों, को जो सरकार के राजपत्रित अधिकारी हैं, उक्त अधिनियम के प्रयोजनों के लिए संपदा अधिकारी के रूप में नियुक्त करती है, और यह भी निर्देश देती है कि उक्त अधिकारी उक्त सारणी के स्तम्भ (2) में की तत्स्थान प्रविष्टि में विनिर्दिष्ट सरकारी स्थानों की बाबत अधिकारिता की स्थानीय सीमाओं के भीतर, उक्त अधिनियम द्वारा या उसके अधीन संपदा अधिकारी को प्रदत्त शक्तियों का प्रयोग और अवरोधित कर्तव्यों का पालन करेगा।

सारणी

अधिकारी का पदामिदान सरकारी स्थानों के प्रवर्ग और स्थानीय अधिकारिता की सीमाएं

(1)	(2)
प्रशासन अधिकारी-I	विक्रम साराभाई अंतरिक्ष केंद्र,
प्रशासन अधिकारी-II	अंतरिक्ष विभाग के सभी स्थान

1

2

साधारण मामलों, कानून जिनके अंतर्गत केरल राज्य के और साधारण प्रशासन त्रिचेन्द्रम जिले में स्थित आवासीय प्रभाग, विक्रम साराभाई कालोनी भी है।
अंतरिक्ष केंद्र, अंतरिक्ष विभाग, त्रिचेन्द्रम-695022

[सं. 9/2(2)/84-III]

टी. एस. वेंकटरामण, उप सचिव

DEPARTMENT OF SPACE

Bangalore— the 8th October, 1986

S.O. 4191:—In exercise of the Powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971) and in supersession of the notification of the Government of India, Department of Space, number S.O. 2106, dated the 30th April, 1982 published in the Gazette of India Part II, Section 3, Sub-section (ii), dated the 5th June, 1982, except as respects things done or omitted to be done before such supersession, the Central Government hereby appoints the officers mentioned in column (1) of the Table below, being Gazetted Officers of Government, to be Estate Officers for the purpose of the said Act, and further directs that the said officers shall exercise powers conferred and perform the duties imposed on Estate Officers by or under the said Act, within the local limits of the jurisdiction in respect of the public premises specified in the corresponding entry in column (2) of the said Table.

TABLE

Designation of the Officer	Categories of public premises and local limits of the jurisdiction
1	2
Administrative Officer-I/ Administrative Officer-II, General Matters, Personnel and General Administration Division, Vikram Sarabhai Space Centre, Department of Space, Trivandrum-695022.	All premises belonging to Vikram Sarabhai Space Centre Department of Space and including Housing Colony situated in Trivandrum District of Kerala.

[No. 9/2(2)/84-III]

T.S. VENKATARAMAN, Dy. Secy.

संचार मंत्रालय

(दूरसंचार विभाग)

नई दिल्ली, 9 दिसम्बर, 1986

का.आ. 4192:—व्यापक ज्ञापन संख्या 627, दिनांक 8 मार्च, 1960 द्वारा लागू किए गए भारतीय तारनियम, 1951 के नियम 434 के खंड III के पैरा (क) के अनुसार महानिदेशक, दूरसंचार विभाग से. तुरंत, पुनर्विचार/पुनर्विचार तथा मेथूर टेल्फोन केंद्रों तमिलनाडू जिले में दिनांक 20-12-1986 से प्रभावित दर प्रणाली लागू करने का निश्चय किया है।

[संख्या 5-26/86-पी एच बी]

के.पी. शर्मा, सहायक महानिदेशक
(पी.एच. बी.)

MINISTRY OF COMMUNICATIONS

(Department of Telecommunications)

New Delhi, the 9th December, 1986

S.O. 4192.—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627 dated 8th March, 1960, the Director General, Department of Telecommunications, hereby specifies 20-12-1986 as the date on which the Measured Rate System will be introduced in Thuraiyur, Puliurkandigai and Meyyur Telephone Exchanges, Tamil Nadu Telecom. Circle.

[No. 5-26/86-PHB]

K. P. SHARMA, Assistant Director General (PHB)

उद्योग मंत्रालय

(कम्पनी कार्य विभाग)

नई दिल्ली, 3 दिसम्बर, 1986

का.आ. 4193:—कम्पनी अधिनियम, 1956 (1956 का 1) धारा 10-ए की उपधारा (2) और (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा भारत सरकार उद्योग मंत्रालय (कम्पनी कार्य विभाग) की दिनांक 7-11-1986 की अधिसूचना में निम्नलिखित संशोधन करती है, अर्थात्:—

1. कथित अधिसूचना में, खंड (क) में

(i) प्रविष्टि सं. 7 के बाद, निम्नलिखित प्रविष्टि, प्रविष्टि सं. 8 के रूप में समाविष्ट होगी अर्थात्—

“8 श्रीमती एस. अच्युथन”

2. उपरोक्त संशोधन 15 अक्टूबर, 1986 (पूर्वाह्न) से लागू होगा।

3. उपरोक्त संशोधन के परिणामस्वरूप, 15 अक्टूबर, 1986 (पूर्वाह्न) से कम्पनी विधि बोर्ड का गठन निम्न प्रकार होगा:—

1. श्री वी. के. दर	अध्यक्ष
2. श्री अशोक चन्द्रा	सदस्य
3. श्री आर. एम. बंसल	सदस्य
4. श्री एस. कुमार	सदस्य
5. श्री वी. के. मजोला	सदस्य
6. श्री सी. आर. सुन्दरराजन	सदस्य
7. श्री एल. डी. वेंकटरमन	सदस्य
8. श्रीमती एस. अच्युथन	सदस्य

[सं. ए-45011/71/86-प्रशा ०-1]

एल. सी. गोयल, अवर सचिव

MINISTRY OF INDUSTRY

(Department of Company Affairs)

New Delhi, the 3rd December, 1986

S.O. 4193.—In exercise of the powers conferred by sub-sections (2) and (3) of Section 10-E of the Companies Act, 1956 (1 of 1956), the Central Government hereby makes the following amendment to the notification of Government of India, Ministry of Industry (Department of Company Affairs) dated 7-11-1986, namely:—

1. In the said notification, in clause (a) (i) After Entry No. 7, the following entry shall be inserted as Entry No. 8, namely:—

“8. Smt. S. Achyuthan”.

2. The aforesaid amendment shall take effect from the 15th October, 1986 (FN).

3. Consequent upon the aforesaid amendment, the constitution of Company Law Board with effect from 15th October, 1986 (FN) shall be as under:—

1. Shri V. K. Dar	—Chairman
2. Shri Ashok Chandra	—Member
3. Shri R. N. Bansal	—Member
4. Shri S. Kumar	—Member
5. Shri V. K. Majotra	—Member
6. Shri C. R. Sundarajan	—Member
7. Shri L. D. Venkataraman	—Member
8. Smt. S. Achyuthan	—Member

[No. A-45011/71/86-Admn. I]
L. C. GOYAL, Under Secy.

खाद्य और नागरिक पूर्ति मंत्रालय

(खाद्य विभाग)

नई दिल्ली, 20 दिसम्बर, 1986

आदेश

का.आ. 4194:—केन्द्रीय सरकार, धान कुटाई उद्योग (विनियमन) अधिनियम, 1958 (1958 का 21) का धारा 19 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि, महाराष्ट्र राज्य में स्थित चावल मिलों के सम्बन्ध में उसके द्वारा उक्त अधिनियम का धारा 5 के अधीन प्रयोक्तव्य शक्तियों का प्रयोग, उस राज्य के प्रभागीय आयुक्त द्वारा भी किया जा सकेगा।

[फा.सं. 15 (एम.ए.एच.) (12)/85-डी.एंड.आर.(आई)]

एच.ए. एम.एल. वाज़, उप महानिदेशक (खाद्य)

MINISTRY OF FOOD & CIVIL SUPPLIES

(Department of Food)

New Delhi, the 20th December, 1986

ORDER

S.O. 4194.—In exercise of the powers conferred by section 19 of the Rice Milling Industry (Regulation) Act, 1958 (21 of 1958), the Central Government hereby directs that the powers exercisable by it under Section 5 of the said Act, in relation to rice mills, in the State of Maharashtra, shall also be exercisable by the Divisional Commissioners of that State.

[F. No. 15(MAH)(12)/85-D&R (I)]
H.A.M.I. VAZ, Dy. Director General (Food)

कृषि मंत्रालय

(कृषि और सहकारिता विभाग)

नई दिल्ली, 4 दिसम्बर, 1986

का.भा. 4195 केन्द्रीय सरकार, बहुराज्य सहकारी सोसाइटी अधिनियम, 1984 (1984 का 51) का धारा 35 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, पोस्टल एंड आर एम एस एम्प्लॉईज कोऑपरेटिव बैंक लिमिटेड, अम्बाला छावनी को उक्त धारा के प्रयोजनों के लिए बहुराज्य सहकारी सोसाइटी के रूप में अधिसूचित करता है।

[सं. एल. 11014/33/86-एल एंड एम]

एस. सोम, संयुक्त सचिव

MINISTRY OF AGRICULTURE

(Department of Agriculture & Co-operation)

New Delhi, the 4th December, 1986

S.O. 4195.—In exercise of the powers conferred by sub-section (1) of section 35 of the Multi-State Co-operative Societies Act, 1984 (51 of 1984), the Central Government hereby notifies the Postal and RMS Employees' Co-operative Bank Limited, Ambala Cantonment to be a multi-state co-operative society for the purposes of the said section.

[No. L-11014/33/86-L&M]

S. SOM, Jt. Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

नई दिल्ली, 5 दिसम्बर, 1986

का.भा. 4196 केन्द्रीय सरकार ने भारतीय उपचर्या परिषद् अधिनियम 1947 (1947 का 48वाँ) का धारा 3 की उपधारा (1) के खंड (ड) के अनुसरण में निम्नलिखित व्यक्तियों को 13 अगस्त, 1985 से भारतीय उपचर्या परिषद् के सदस्यों के रूप में नामनिर्दिष्ट किया है, अर्थात्:—

1. श्रीमती प्रेम मिश्र,
उपचर्या अधीक्षक,
स्नातकोत्तर आयुर्विज्ञान शिक्षा एवं अनुसंधान संस्थान, चण्डीगढ़
2. कु. ताहिरा खान,
एम.एस.सी. उपचर्या, (संयुक्त राष्ट्र अमेरिका) प्राचार्य उपचर्या महाविद्यालय,
हैदराबाद (आन्ध्र प्रदेश)
3. श्रीमती के. जाओ,
उपचर्या अधीक्षक,
निदेशालय, नागालैंड
4. श्रीमती मैनी एलेक्जेंडर,
सहायक प्राचार्य,
प्रसूति विज्ञान और स्त्री रोग विज्ञान,
23 अगावन रोड, ताम्बरम्, मद्रास-45

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 3 की उपधारा (1) के अनुसरण में भारत सरकार के भूतपूर्व स्वास्थ्य मंत्रालय का अधिसूचना सं. 27-57/57-एम० II (बी) तारख 1 दिसम्बर, 1986 में निम्नलिखित और संशोधन करता है, अर्थात्:—

उक्त अधिसूचना में धारा 3 की उपधारा (1) के खंड (ड) के अग्रन नामनिर्दिष्ट शर्षक के अर्धन क्रम संख्या 1 से 4 तथा उनसे संबंधित प्रविष्टियों के स्थान पर क्रमशः निम्नलिखित क्रम संख्याएं और प्रविष्टियां रखी जाएंगी अर्थात्:—

1. श्रीमती प्रेम मिश्र,
उपचर्या अधीक्षक,
स्नातकोत्तर आयुर्विज्ञान शिक्षा एवं अनुसंधान संस्थान,
चण्डीगढ़
2. कु. ताहिरा खान,
एम.एस.सी. उपचर्या (संयुक्त राष्ट्र अमेरिका)
प्राचार्य उपचर्या महाविद्यालय
हैदराबाद (आन्ध्र प्रदेश)
3. श्रीमती के. जाओ,
उपचर्या अधीक्षक,
निदेशालय, नागालैंड,
4. श्रीमती मैनी एलेक्जेंडर,
सहायक प्राचार्य,
प्रसूति विज्ञान और स्त्री रोग विज्ञान
23 अगावन रोड,
ताम्बरम्, मद्रास-45

[सं. वा-14013/2/85-पो एम एस]

शोमना राजेन्द्रन, उप सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

New Delhi, the 5th December, 1986

S.O. 4196.—Whereas the Central Government, in pursuance of clause (n) of sub-section (1) of section 3 of the Indian Nursing Council Act, 1947 (48 of 1947), have nominated the following persons to be members of the Indian Nursing Council, with effect from the 13th August, 1985, namely:—

1. Mrs. Prem Mishra,
Nursing Superintendent,
Post Graduate Institute of
Medical Education and
Research, Chandigarh.
2. Miss Tahira Khan,
M.Sc. Nursing (U.S.A.),
Principal College of Nursing,
Hyderabad (Andhra Pradesh).
3. Mrs. K. Zao,
Nursing Superintendent,
Directorate,
Nagaland.
4. Mrs. Maney Alexander,
Assistant Professor, Obstetric and
Gynaecology,
23, Agavan Road, Tambaram,
Madras-45.

Now, therefore, in pursuance of sub-section (1) of section 3 of the said Act, the Central Government hereby makes the following further amendment, in the notification of the Government of India in the late Ministry of Health No. 27-57/57-M.II(B), dated the 1st December, 1958, namely:—

In the said notification, under the heading "Nominated under clause (n) of sub-section (1) of Section 3" for serial numbers 1 to 4 and the entries relating thereto, the following serial numbers and entries shall respectively be substituted, namely:—

- "1. Mrs. Prem Mishra,
Post Graduate Institute of
Medical Education and
Research, Chandigarh.

2. Miss Tahira Khan,
M.Sc. Nursing (U.S.A.),
Principal College of Nursing,
Hyderabad (Andhra Pradesh).

3. Mrs. K. Zao,
Nursing Superintendent,
Directorate, Nagaland.

4. Mrs. Maney Alexander,
Assistant Professor, Obstetric
and Gynaecology,
23, Agavan Road, Tambaram,
Madras-45."

[No. V. 14013/2/85-PMS]

Smt. SHOBHANA RAJENDRAN, Dy. Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 9 दिसम्बर, 1986

शुद्धि-पत्र

का. प्रा. 4197 भारत सरकार के राजपत्र भाग II खंड 3, उपखंड (ii) दिनांक 4-9-1982 पृष्ठ क्रमांक 3123 और 3124 का. प्रा. सं. 12016/28/82 प्रोड. 1 के अंतर्गत भारत सरकार उर्जा मंत्रालय (पेट्रोलियम विभाग) की अधिसूचना संख्या 3086 दिनांक 4-9-1982 के अंतर्गत पेट्रोलियम और खनिज पाईप लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 की धारा 3 उपधारा (i) के अधीन वर्णित गांव अवाई तहसील पनवेल जिला रायगड महाराष्ट्र के अंतर्गत अधिसूचना में वर्णित भूमि में खतरा नम्बर, हिस्सा नम्बर, क्षेत्रफल कानून 1 के बदले अनुसूची में खतरा नम्बर, हिस्सा नम्बर, क्षेत्रफल कानून 2 में दी गई अनुसूची को पढ़ें।

निम्नलिखित अनुसूची के भाग 2 में वर्णित भूमि में पाईप लाइन बिछाने का प्रयोजन अवाईमेंट बनाने से अब न रहा है। अब अतः निम्नलिखित अनुसूची के भाग 2 में वर्णित भूमि, धारा 3 के उपधारा (i) के अधिसूचना की अनुसूची से कम कर दी गई है।

अनुसूची

कालम II पढ़ें

भाग I

कॉलम I के लिए

गांव	खतरा नम्बर	हिस्सा नम्बर	क्षेत्रफल	गांव	हिस्सा नम्बर	खतरा नम्बर	क्षेत्रफल
अवाई	129	2	00 03 75	अवाई			
	129	3	00 03 25		129	का भाग	00 11 00
	129	4	00 04 00				
	130	2	00 04 00				
	130	3	00 06 00		130	"	00 07 00
	131	1 & 2	00 43 00		131	"	00 50 00
	132	3	00 07 25				
	132	4	00 05 75		132	"	00 16 00

भाग II

गांव	खतरा नम्बर	हिस्सा नम्बर	क्षेत्रफल
कुछ नहीं			

[सं. O - 12016/28/82 - प्रोड]

MINISTRY OF PETROLEUM & NATURAL GAS

New Delhi, the 9th December, 1986.

CORRIGENDUM

S.O. 4197.—In the Notification of Government of India Ministry of Energy (Department of Petroleum) No. (i) 12016/28/82 Prod. 1 dated 4th September, 1982 published under S.O. No. 3086 in the Gazette of India, Part II, section 3, Sub-Section (ii) at pages 3123 and 3124 issued under Section 3 Sub-Section (i) of the Petroleum & Minerals Pipelines

(Acquisition of Right of User in Land) Act, 1962, in respect of villages Acaee, Tahsil-Panvel, District-Raigad, State Maharashtra, for S. Nos. and areas shown in the column No. 1 of the Schedule Appended to this Corrigendum, read the S. Nos. and areas as shown in the column No. 2 of the said Schedule.

Land mentioned in Part II of the appended schedule, however do not come under the Pipe Line Project, due to change in alignment and therefore, they are deleted from the schedule appended to the Notifications under Section 3, Sub-Section (i) referred to above.

SCHEDULE

Read (Col—II)				PART—I				For (Col—I)
Village	S.No.	H.No.	Area	Village	S.No.	H.No.	Area	
	G.No.				G.No.			
Adace	129	2	00-03-75	Adace				
	129	3	00-03-25		129	(pt)	00-11-00	
	129	4	00-04-00					
	130	2	00-04-00		130	(pt)	00-07-00	
	130	3	00-06-00					
	131	1&2	00-43-00		131	(pt)	00-50-00	
	132	3	00-07-25		132	(pt)	00-16-00	
	132	4	00-05-75					

PART - II

Village	S. No.	H. No.	Area
—Nil—			

[No. O-12016/28/82—Prod.]

प्रतिपत्ति

का. प्रा. 4198:—भारत सरकार के राजपत्र (भाग II, खंड 3, उपखंड (ii) दिनांक 5-2-83 पृष्ठ क्रमांक 676 और 677 का. प्रा. संख्या 1216/28/82 प्रोड 1 के अंतर्गत भारत सरकार उर्जा मंत्रालय (पेट्रोलियम विभाग) की अधिसूचना संख्या 779 दिनांक 5-2-83 के अंतर्गत पेट्रोलियम और खनिज पार्श्व लाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 की धारा 6 उपधारा (i) के अधीन वर्णित गांव अर्दई तहसील पनवेल जिला रायगड महाराष्ट्र के अंतर्गत अधिसूचना में वर्णित भूमि में खसरा नम्बर, हिस्सा नम्बर, क्षेत्रफल कालम 1 के बने अधिसूची में खसरा नम्बर, हिस्सा नम्बर, क्षेत्रफल कालम 2 में दी गई अधिसूची को पढ़ें।

निम्नलिखित अधिसूची के भाग 2 में वर्णित भूमि में पार्श्व लाईन बिछाने का प्रयोजन अलाइमेंट बदलने से अब न रहा है, अब अब निम्नलिखित अधिसूची के भाग 2 में वर्णित भूमि धारा 6 के उपधारा (i) के अधिसूचना की अधिसूची से कम कर दी गई है।

अधिसूची

कॉलम II पढ़ें				भाग I				कॉलम I के लिए
गांव	खसरा नम्बर	हिस्सा नम्बर	क्षेत्रफल	गांव	खसरा नम्बर	हिस्सा नम्बर	क्षेत्रफल	
अर्दई	129	2	00 03 75					
	129	3	00 03 25	अर्दई	129	का भाग	00-11-00	
	129	4	00 04 00					
	130	2	00 04 00					
	130	3	00 06 00		130	"	00-07-00	
	131	1 & 2	00 43 00		131	"	00-50-00	
	132	3	00 07 25		132	"	00-16-00	
	132	4	00 05 75					

भाग II

गांव

कुछ नहीं,

[अ. O- 12016/28/82 - प्रोड -1]

CORRIGENDUM

S.O. 4198.—In the Notification of Government of India Ministry of Energy (Department of Petroleum) No. 12016/28/82 Prod. I dated 5th February, 1983 published under S.O. No. 779 in the Gazette of India, Part II, Section 3, Sub-Section (ii) at pages (i)676 & 677 issued under section 6 Sub-Section (i) of the Petroleum & Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962, in respect of

Villages—Adace, Tahsil Panvel District—Raigad, State Maharashtra, for S. Nos. and areas shown in the column No. 1 of the schedule appended to this corrigendum read the S. Nos. and areas as shown in the column No. 2 of the said schedule.

Lands mentioned in Part II of the appended schedule, however, do not come under the Pipe Line Project due to change alignment and therefore, they are deleted from the schedule appended to the Notification under section 6 Sub-Section (i) referred to above.

SCHEDULE

Read (Col-II)				PART—I				For (Col-I)			
Village	S. No. G. No.	H. No.	Area	Village	S. No. G. No.	H. No.	Area	Village	S. No. G. No.	H. No.	Area
Adace	129	2	00-03-75	Adace							
	129	3	00-03-25		129	(pt)	00-11-00				
	129	4	00-04-00								
	130	2	00-04-00								
	130	3	00-06-00		130	(pt)	00-07-00				
	131	1 & 2	00-43-00		131	(pt)	00-50-00				
	132	3	00-07-25								
					132	(pt)	00-16-00				
	132	4	00-05-75								

PART - II

Village	S. No. G. No.	H. No.	Area
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—Nil—

[No. O-12016/28/82-Prod. I]

शुद्धिपत्र

क्र. प्र. 4199:—भारत सरकार के राजपत्र भाग II, खंड 3, उपखंड (ii) दिनांक 17-12-83 पृष्ठ क्रमांक 4840 और 4841 का. प्र. संख्या 0-12016/134/83-प्रौढ के अंतर्गत भारत सरकार, उर्जा मंत्रालय (पेट्रोलियम विभाग) की अधिसूचना संख्या 4510 दिनांक 17-12-83 के अंतर्गत पेट्रोलियम और खनिज पाईप लाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 की धारा 3 उपधारा (i) के अधीन वर्णित गांव मोझी तहसील हुबेली जिला पुणे महाराष्ट्र के अंतर्गत अधिसूचना में वर्णित भूमि में खसरा नम्बर, हिस्सा नम्बर, क्षेत्रफल कालम 1 के बगले अनुसूची में खसरा नम्बर, हिस्सा नम्बर, क्षेत्रफल कालम 2 में दी गई अनुसूची को पढ़ें।

निम्नलिखित अनुसूची के भाग 2 में वर्णित भूमि में पाईप लाइन बिछाने का प्रयोजन अलाइमेंट बदलने से प्रभव रहा है, अब अतः निम्नलिखित अनुसूची के भाग 2 में वर्णित भूमि, धारा 3 के उपधारा (i) के अधिसूचना को अनुसूची से कम कर दी गई है।

अनुसूची

कालम II पढ़ें				भाग I				कालम I के लिए			
गांव	खसरा नम्बर	हिस्सा नम्बर	क्षेत्रफल	गांव	खसरा नम्बर	हिस्सा नम्बर	क्षेत्रफल	गांव	खसरा नम्बर	हिस्सा नम्बर	क्षेत्रफल
मोझी	442	का भाग	00-58-60	मोझी	442	का भाग	00 70 00				
	450	1-1	00-35-00		450	"	00 55 00				
	452	का भाग	00-15-84		452	"	00 30 00				
	456	"	00-43-56		456	"	00 46 00				
	457	"	00-13-94		457	"	00 09 00				
	458	"	00-24-48		458	"	00 06 00				

भाग - II

गांव	खसरा नम्बर	हिस्सा नम्बर	क्षेत्रफल
मोझी	46	का भाग	00 04 00

[क्र. O-12016/134/83-प्रौढ]

S.O. 4199.—In the Notification of Government of India, Ministry of Energy (Department of Petroleum No. O-12016/134/83-Prod. dated 17-12-83 published under S.O. No. 4510 in the Gazette of India, Part II, Section 3, Sub-Section (ii) at pages 4840 & 4841 issued under Section 3 Sub-Section (i) of the Petroleum & Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 in respect of Villages Moshi for S. Nos. and areas shown in the Column No. 1 of the

Schedule appended to this corrigendum, read and S. Nos. and areas as shown in column No. 2 of the said Schedule.

Lands mentioned in the Part II of the appended schedule, however do not come under the Pipeline Project due to change in the alignment and therefore, they are deleted from the schedule appended to the Notification under section 3 Sub Section (i) referred to above.

SCHEDULE

Read (Col-II)

For (Col-I)

Village	S. No. G. No.	H. No.	Area	Village	S. No. G. No.	H. No.	Area
Moshi	442	(pt)	00-58-60	Moshi	442	(pt)	00-79-00
	450	1-1	00-35-00		450	(pt)	00-55-00
	452	(pt)	00-15-84		452	(pt)	00-30-00
	456	(pt)	00-43-56		456	(pt)	00-46-00
	457	(pt)	00-13-94		457	(pt)	00-09-00
	458	(pt)	00-24-48		458	(pt)	00-06-00

PART - II

Village	S. No. G. No.	H. No.	Area
Moshi	446	(pt)	00-04-00

[No. O-12016/134/83-Prod.]

शुद्धिपत्र

क्र. प्रा. 4200.—भारत सरकार के राजपत्र, भाग 1, खंड 3, उपखंड (ii) दिनांक 8-9-84 पृष्ठ क्रमांक 2882 का. प्रा. संख्या O-12016/134/83-प्रोड के अंतर्गत भारत सरकार, उर्जा मंत्रालय (पेट्रोलियम विभाग) की अधिसूचना संख्या 2887 दिनांक 8-9-84 के अंतर्गत पेट्रोलियम और खनिज पाइप-लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 की धारा 6 उपधारा (1) के अधीन वर्णित गांव मोशी, तहसील हवेली, जिला पुणे, महाराष्ट्र के अंतर्गत अधिसूचना में वर्णित भूमि में खसरा नम्बर, हिस्सा नम्बर, क्षेत्रफल कालम 1 के बने अनुसूची में खसरा नम्बर, हिस्सा नम्बर, क्षेत्रफल कालम 2 में दी गई अनुसूची को पढ़ें।

निम्नलिखित अनुसूची के भाग 2 में वर्णित भूमि में पाइप लाइन बिछाने का प्रयोजन अलाईमेंट बनाने से अब न रहा है। अब अतः निम्नलिखित अनुसूची के भाग 2 में वर्णित भूमि, धारा 6 के उप धारा (1) के अधिसूचना को अनुसूची से कम कर दी गई है।

अनुसूची

कालम II पढ़ें

भाग 1

कालम I के लिए

गांव	खसरा नम्बर	हिस्सा नम्बर	क्षेत्रफल	गांव	खसरा नम्बर	हिस्सा नम्बर	क्षेत्रफल
मोशी	442	का भाग	00-58-60	मोशी	442	का भाग	00-79-00
	450	1-1	00-35-00		450	"	00-55-00
	452	का भाग	00-15-84		452	"	00-30-00
	456	"	00-43-56		456	"	00-46-00
	457	"	00-13-94		457	"	00-09-00
	458	"	00-24-48		458	"	00-06-00

भाग - II

गांव	खसरा नम्बर	हिस्सा नम्बर	क्षेत्रफल
मोशी	446	का भाग	00-04-00

संलग्न प्राधिकारः, बम्बई-पुणे-पारंपराईन प्रोजेक्ट, पुणे
[सं. O-12016/134/83-प्रोड-I]

CORRIGENDUM

S.O. 4200.—In the Notification of Government of India, Ministry of Energy (Department of Petroleum) No. O-12016/134/83-Prod. dated 8-9-84 published under S.O. No. 2887 in the Gazette of India, Part II, Section 3, Sub-Section (ii) at page 2682 issued under Section 6 Sub-Section (i) of the Petroleum & Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 in respect of Villages Moshi for S. Nos. and

areas shown in the Column No. 1 of the Schedule appended to this corrigendum, read and S. Nos. and areas as shown in column No. 2 of the said schedule.

Lands mentioned in the Part II of the appended schedule, however do not come under the Pipeline Project due to change in the alignment and therefore, they are deleted from the schedule appended to the Notification under section 6, Sub-Section (i) referred to above.

SCHEDULE

Read (Col-II)				For (Col-I)			
Village	S. No. G. No.	H. No.	Area	Village	S. No. G. No.	H. No.	Area
Moshi	442	(pt)	00-58-60	Moshi	442	(pt)	00-79-00
	450	1-1	00-35-00		450	(pt)	00-55-00
	452	(pt)	00-15-84		452	(pt)	00-30-00
	456	(pt)	00-43-56		456	(pt)	00-46-00
	457	(pt)	00-13-94		457	(pt)	00-09-00
	458	(pt)	00-24-48		458	(pt)	00-06-00

PART-II

Village	S. No.	H. No.	Area
Moshi	446	(pt)	00-04-00

Sd/- Competent Authority Bombay-Pune Pipeline Project Pune
[No. O-12016/134/83-Prod.-I]

का.का. 4/01.—यतः पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का. का. सं. 2770 तारीख 25-7-86 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइपलाइनों को बिछाने के लिए अर्जित करने का अपना भाव्य घोषित कर दिया था।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाता है।

और आगे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्र सरकार में निहित होने की बजाय तेल और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

उत्तम जी. सी. एस. से सरसावनी तक पाइपलाइन बिछाने के लिए।
राज्य : गुजरात जिला : बड़ोदा तालुका : पावरा

गांव	ब्लॉक	हेक्टेयर	आरे	सेन्टीयर
1	2	3	4	5
आमला	1223	0	00	48
	1224	0	05	28
	1222	0	05	20
	1219	0	06	00
	1218	0	06	08
	1212	0	05	36
	1189	0	06	00
	1199	0	01	60
	1193	0	06	50
	1192	0	05	12
	1168	0	04	64
	1165	0	06	00
	990	0	04	80
	991	0	03	20
	324	0	05	60
	985	0	05	12
काटेंद्रक		0	00	60
	986	0	04	00
	922	0	05	25
	920	0	05	12

1	2	3	4	5
आमला (आर.)	915	0	05	30
	912	0	14	40
कानडा	0	01	60	
828	0	05	60	
831	0	07	00	
836	0	11	20	
फाई ट्रैक	0	00	40	
841	0	04	32	
773	0	13	60	
843	0	09	00	

[नं. O-12016/114/86-ओएनजी-डी-4]

S.O. 4201.—Whereas by notification of the Government of India in the Ministry of Petroleum & Natural Gas S.O. 2770 dated 25-7-86 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And further whereas the Central Government has, after Section (1) of Section 6 of the said Act, submitted report to the Government ;

And further whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands specified in the schedule appended to this notification ;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this Notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil & Natural Gas Commission free from encumbrances.

SCHEDULE

Pipeline from Debka G. G. to Sarsawani

State : Gujarat Taluka : Padra District : Bardoa

Village	Block No.	Hectare	Acre	Centiare
1	2	3	4	5
Amla	1223	0	00	48
	1224	0	05	28
	1222	0	05	20
	1219	0	06	00
	1218	0	06	08
	1212	0	05	36
	1189	0	06	00
	1199	0	01	60
	1193	0	06	50
	1192	0	05	12
	1168	0	04	64
	1165	0	06	00
	990	0	04	80

1	2	3	4	5
Amla (Contd.)	991	0	03	20
	324	0	05	60
	985	0	05	12
Cart Track	0	00	60	
986	0	04	00	
922	0	05	25	
920	0	05	12	
915	0	05	30	
912	0	14	40	
Kans	0	01	60	
828	0	05	60	
831	0	07	00	
836	0	11	20	
Cart track	0	00	40	
841	0	04	32	
773	0	13	60	
843	0	09	00	

[No. O-12016/114/86-ONG-D4]

का. आ. 4202:—यतः पेट्रोलियम और खनिज पाइप-लाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 (1962 का 50) को धारा 3 की उपधारा (1) के अधीन भारत सरकार पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का.आ.सं. 3050 तारीख 14-8-86 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूच में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइपलाइनों को बिछाने के लिए अर्जित करने का अपना आशय घोषित कर दिया था।

और यतः सज्जम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूच में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनियमन किया है।

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करता है कि इस अधिसूचना में संलग्न अनुसूच में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के प्रयास के लिए एतद्वारा अर्जित किया जाता है।

और आगे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निवेदन देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय तेल और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की तारीख को निहित होगी।

अनुसूच

जी.जी.एस. III से जी.जी.एस V तक पाइपलाइन बिछाने के लिए।

राज्य : गुजरात	जिला : मेहसाणा	तालुका : कलोल		
गांव	ब्लॉक नं.	हेक्टेयर	आरे.	सेन्टीयर
बाबावसराभी	287	0	19	50
	273	0	06	30
	272	0	14	70
	271	0	15	30
फाई ट्रैक	0	01	03	
	240	0	06	45

1	2	3	4	5
वडावास्वाम (जारी)	239	0	06	90
	237	0	24	00
	233	0	21	00
	217	0	18	50
	234	0	01	60
	216	0	12	90

[सं. O-12016/138/86-ओएनजी-डी 4]

S.O. 4202.—Whereas by notification of the Government of India in the Ministry of Petroleum & Natural Gas S.O. 3050 dated 14-8-86 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land), Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And whereas the Competent Authority has under Sub-Section (1) of Section 6 of the said Act, submitted report to the Government ;

And further whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands specified in the schedule appended to this notification ;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that, the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline ;

And further, in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil & Natural Gas Commission free from encumbrances.

SCHEDULE

Pipeline from GGS III to GGS V.

State : Gujarat District : Mehsana Taluka : Kalol

Village	Block No.	Hec- tare	Are	Cent tiare
Vadvaswam	267	0	19	50
	273	0	06	30
	272	0	14	70
	271	0	15	30
	Curt track	0	01	05
	240	0	06	45
	239	0	06	90
	237	0	24	00
	233	0	21	00
	217	0	16	50
	234	0	01	60
	216	0	12	90

[No.O-12016/138/86-ONG-D4]

सं. आ. 4203.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में कूप नं. झालोरा-40 से ज.जी. एस झालोरा-II तक पेट्रोलियम के परिवहन के लिए पाइपलाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतद्वयपक्ष अनुसूचित में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन बिछाने (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

अर्थात् कि उक्त भूमि में हितवृद्ध कोई व्यक्ति, उस भूमि के नीचे पाइपलाइन बिछाने के लिए आशेष सञ्चम प्राधिकारी तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बडोदा-9 को इस अधिनियम की तरफ से 21 दिनों के भीतर कर सकेगा।

और ऐसा आशेष करने वाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी व्यवसाय की मार्फत।

अनुसूची

कूप नं. झालोरा-40 से ज.जी.एस.झालोरा II तक पाइपलाइन बिछाने के लिए।

राज्य : गुजरात तालुका : कडो जिला : मेहसना

गांव	सर्वे नं.	हेक्टेयर	आरे.	सेन्टीयर
लखमपुरा	200	0	4	0
	201	0	6	0
	203	0	6	75
	204	0	36	30
	215	0	15	15
	216	0	3	0

[सं. O-12016/217/86-ओएनजी-डी-4]

S.O. 4203.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Well No. Jhalora-40 to GGS Jhalora-II in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto :—

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of user in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein ;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the Pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara, (390009).

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

Pipeline from well No. Jhalora-40 to GGS Jhalora-II

State : Gujarat Taluka : Kadi District : Mehsana

Village	Survey No.	Hec- tare	Are	Cent tiare
Laxmanpura	200	0	4	0
	201	0	6	0
	203	0	6	75
	204	0	36	30
	215	0	15	15
	216	0	3	0

[No. O-12016/217/86-ONG-D4]

का.प्र. 4204:—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में कारजीसन-1 से कलोल-126 तक पेट्रोलियम के परिवहन के निम्न पाइपलाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिये एतद्वारा अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

वर्तते कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइपलाइन बिछाने के लिए आक्षेप सभ्य प्राधिकारी, तेल तथा प्राकृतिक गैस आयोग, निर्माण और वेल्डिंग प्रभा, मकरपुरा रोड, वडोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चितः यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी मुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

कूप नं. कारजीसन-1 से कलोल-126 तक पाइप लाइन बिछाने के लिए

राज्य : गुजरात जिला : मेहसाना तालुका : कड़ी

गांव	सर्वे नं.	हेक्टेयर	अर.	सेंटीयर
1	2	3	4	5
डंगरवा	399	0	19	50
	400	0	06	00
	401	0	09	00
कार्ट ट्रैक		0	00	90
	410	0	10	50
	411	0	12	30
	653	0	03	15
कार्ट ट्रैक		0	01	05
	726/2	0	04	20
	725/1	0	04	35
	724	0	00	90
	727	0	03	60
	728/2	0	04	30
	728/1	0	05	70
	722/1	0	09	00
	741	0	24	45
	721	0	03	60
कार्ट ट्रैक		0	01	05
	787	0	22	50
	785/2	0	04	80
	785/1	0	04	30
	763/1	0	18	30
	766	0	07	80
कार्ट ट्रैक		0	09	90
	573	0	09	00
	548	0	27	30
	549	0	08	75
कार्ट ट्रैक		0	00	90

1	2	3	4	5
	545	0	18	15
	537	0	00	90
	538	0	15	30
	527	0	06	00
	528	0	12	30
कार्ट ट्रैक		0	01	20
	968	0	20	80
	966	0	30	60
	983	0	15	00
	984	0	06	50
	985	0	04	50
	986	0	06	00
	958	0	06	30
कार्ट ट्रैक		0	01	20
	957	0	03	00
	955	0	09	30
	945	0	06	60
	949	0	19	50
	948	0	06	00

[रं. अं.-12016/216/86-ओएनजी-सी-4]

S.O. 4204.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Kargisan-1 to Kalol-126 in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto:—

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of user in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the Pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara, (390009).

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

Pipeline from well no. Kargisan-1 to Kalol-126

State : Gujarat District : Mehsana Taluka : Kad

illage	Survey No.	Hectare	Are	Centiare
1	2	3	4	5
Dangarva	399	0	19	50
	400	0	06	00
	401	0	09	00
Cart track		0	00	90
	410	0	10	50
	411	0	12	30
	653	0	03	15
Cart track		0	01	05

1	3	4	5
726/2	0	04	20
725/1	0	04	35
724	0	00	90
727	0	03	60
728/2	0	04	30
728/1	0	05	70
722/1	0	09	00
741	0	24	45
721	0	03	60
Cart track	0	01	05
787	0	22	50
785/2	0	04	50
785/1	0	04	30
763/1	0	18	30
766	0	07	80
Cart track	0	09	90
573	0	09	00
548	0	27	30
549	0	06	75
Cart track	0	00	90
545	0	18	15
537	0	00	20
538	0	15	30
527	0	06	00
528	0	12	30
Cart track	0	01	20
968	0	20	80
966	0	30	60
983	0	15	00
884	0	06	50
985	0	04	50
886	0	06	00
958	0	06	30
Cart track	0	01	20
957	0	03	00
955	0	09	30
945	0	06	60
949	0	19	50
948	0	06	00

[No.O-12016/216/86-ONG-D4]

का.आ. 4205 :—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में दहेज से पालेज तक पेट्रोलियम के परिवहन के लिये पाइपलाइन सेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिये एतद्वाचक अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का प्रस्ताव आशय एतद्द्वारा घोषित किया है।

वर्तते कि उक्त भूमि में हितवश कोई व्यक्ति, उस भूमि के नीचे पाइपलाइन बिछाने के लिए आये सभ्य अधिकारी, तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ीबा-0 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चितः यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची				
दहेज से पालेज तक पाइप लाइन बिछाने के लिए				
राज्य : गुजरात तालुका : वागदा जिला : मरुवा				
गांव	ब्लाक नं.	हेक्टेयर	अर.	सेंट पर
1	2	3	4	5
कलावा	717	0	05	00
	716	0	08	00
	710	0	34	00
	711	0	20	00
	709	0	08	00
	708	0	22	00
	707	0	09	00
	705	0	07	00
	703	0	22	00
	678	0	26	00
	679	0	12	00
	674	0	33	00
	673	0	13	00
	681	0	08	00
	682	0	02	00
	555	0	22	00
	550	0	02	00
	551	0	23	00
	552	0	07	00
	549	0	12	00
	548	0	01	00
	545	0	30	00
	538	0	07	00
	537	0	23	00
	536	0	14	00
	528	0	21	00
	453	0	24	00
	455	0	01	00
	454	0	19	00
	450	0	25	00
	451	0	14	00
	419	0	03	00
	447	0	09	00
	448	0	32	00
	445	0	06	00
	446	0	20	00

[सं. ओ-12016/212/86-ओएनजीड-4]

S.O. 4205.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Dahej to Palej in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto :—

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of user in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the Pipeline under the land to the Competent

Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara, (390009).

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

Pipeline from Dabaj to Palej

State : Gujarat Taluka : Wagda District : Bharuch

Village	Block No.	Hec-tare	Acres	Centi-tare
1	2	3	4	5
Keladra	717	0	05	00
	716	0	08	00
	710	0	34	00
	711	0	20	00
	709	0	08	00
	708	0	22	00
	707	0	0	00
	705	0	07	00
	703	0	22	00
	678	0	26	00
	679	0	12	00
	674	0	33	00
	673	0	13	00
	681	0	08	00
	682	0	02	00
	555	0	22	00
	550	0	02	00
	551	0	23	00
	552	0	07	00
	549	0	12	00
	548	0	01	00
	545	0	30	00
	538	0	07	00
	537	0	23	00
	536	0	14	00
	528	0	21	00
	453	0	24	00
	455	0	01	00
	454	0	19	00
	450	0	25	00
	451	0	14	00
	449	0	03	00
	447	0	09	00
	448	0	32	00
	445	0	06	00
	446	0	20	00

[No. O-12016/212/-86-ONG-D 4]

का. धा 4206 :—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में दहेज से पालेज तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तैयार तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिये एतद्वाक्य अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) को धारा 3 की उपधारा (1) द्वारा प्रस्तुत शक्तियों का प्रयोग करत हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का आदेश जारी एतद्द्वारा घोषित किया है।

बयान कि उक्त भूमि में हिस्सा कोई व्यक्ति, उक्त भूमि के लिये पाइपलाइन बिछाने के लिए आशेष सक्षम अधिकारी तैयार तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाव, महारपुरा, रोड, वडोदा-9 को इस अधिसूचना को तारीख से 21 दिनों से मान्य कर लेता है।

और ऐसा आशेष करने वाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या यह बहु चाहता है कि उसकी मुनकई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

दहेज से पालेज तक पाइप लाइन बिछाने के लिए

राज्य: गुजरात तालुका: वागदा जिला: भरुच

गांव	सर्वे नं.	हेक्टेयर	आर.	सेंटीयर
रहाड	121	0	16	00
	120	0	98	00
	123	0	10	00
	119	0	25	00
	125	0	27	00
	58	0	81	00
	60	0	01	00
	74	0	58	00
	75	0	22	00
	79	0	26	00
	80	0	40	00

[सं. ओ-12016/211/86-ओएनजी-डी-4]

S.O. 4206.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Dabaj to Palej in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto.—

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of user in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the Pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara, (390009).

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

Pipeline from Dahej to Palej

State : Gujarat Taluka : Vagare District : Bharuch

Village	Survey No.	Hec- tare	Are	Cent- tiare
Rahae,	121	0	16	00
	122	0	98	00
	123	0	10	00
	115	0	25	00
	125	0	27	00
	58	0	81	00
	6	0	01	00
	74	0	58	00
	75	0	22	00
	79	0	26	00
	80	0	40	00

[No. O-12016/211/86/-ONG-D4]

का.भा. 4207 :—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में K-387 से जी.ओ.एस-6 तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तैय्य तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिये एक्वायर्ड भूमि में वगित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

अतः कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइपलाइन बिछाने के लिए आशय सज्जन प्राधिकारी तैय्य तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ौदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आशय करने वाला हर व्यक्ति विनिश्चितः यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

के-387 से जी.ओ.एस. 6 तक पाइप लाइन बिछाने के लिए

राज्य : गुजरात जिला : मेहसाणा तालुका : कड़ो

गांव	सर्वे न.	हेक्टेयर	आर.	सेंटीयर
झुलसान	962	0	07	30
	961	0	07	50

[सं. ओ-12016/210/86-ओएनजी-डी-4]

S.O. 4207.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from K-387 to G.G.S. VI in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission,

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto :—

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of user in the Land) Act,

1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the Pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara, (390009).

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

Pipeline from K-387 to GGS VI.

State : Gujarat District : Mehsana Taluka : Kadi

Village	Survey No.	Hec- tare	Are	Cent- tiare
Zhulasan	962	0	07	30
	961	0	07	50

[No. O-12016/210/86-ONG-D4]

का.भा. 4208 :—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में दहेज से पालेज तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तैय्य तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिये एक्वायर्ड भूमि में वगित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

अतः कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइपलाइन बिछाने के लिए आशय सज्जन प्राधिकारी तैय्य तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ौदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आशय करने वाला हर व्यक्ति विनिश्चितः यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

दहेज से पालेज तक पाइप लाइन बिछाने के लिए।

राज्य : गुजरात तालुका : वागड़ा जिला : मकूब

गांव	सर्वे न.	हेक्टेयर	आर.	सेंटीयर
कोलीयाद	187	0	10	00
	183/ए	0	50	00
	183/बी	0	11	00
	183	0	07	00
	180	0	12	00
	159	0	11	00
	181	0	12	00
	158/ए	0	36	00
	158/बी	0	24	00
	155	0	13	00

[सं. ओ-12016/207/86-ओएनजी-डी-4]

S.O. 4208.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Dahej to Palej in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto :—

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of user in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the Pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara, (390009).

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

Pipeline from Dahej to Palej Line

State : Gujarat	Taluka : Wagra	District : Bharuch			
Village	Block No.	Hectare	Are	Cen-	tiare
Koliyad	187	0	10	00	
	183/A	0	50	00	
	183/B	0	11	00	
	163	0	07	00	
	160	0	12	00	
	159	0	11	00	
	161	0	12	00	
	158/A	0	36	00	
	158/B	0	24	00	
	155	0	13	00	

[No. O-12016/207/86-ONG-D4]

क्र.सं. 4208 :—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में के-320 से जी.जी.एस. 3 तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तेल तथा प्राकृतिक गैस प्रायोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी सार्वजनिक भूमि को बिछाने के प्रयोजन के लिये एतद्प्रावधान अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का प्रस्ताव आशय एतद्द्वारा घोषित किया है।

बशर्त कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइपलाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी तेल तथा प्राकृतिक गैस प्रायोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ौदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चितः यह भी कथन करेगा कि क्या यह आवश्यक है कि उक्त सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

1244 GI/86—4

अनुसूची

के-320 से जी.जी.एस.-VIII तक पाइप लाइन बिछाने के लिए।

राज्य :—गुजरात जिला : मेहसाना तालुका : कलोल

गाँव	सर्वे नं.	हेक्टेयर	भार.	सेंटियर
कलोल	19	0	16	80
	18/2	0	17	25
	18/1	0	01	50

[सं. ओ-12016/208/86-ओएनजी-वी 4]

S.O. 4209.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from K-320 to G.G.S. VIII Kulol in Gujarat pipeline should be laid by the Oil & Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto :—

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of user in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares the intention to acquire the right of user therein :

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the Pipeline under the land to the Competent Authority, Oil & Natural Gas Commission, Construction & Maintenance Division, Makarpura Road, Vadodara (390009).

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

Pipeline from K-320 to GGS VIII.

State : Gujarat District : Mehsana Taluka : Kalol

Village	Survey No	Hectare	Are	Cen-	tiare
Kalol	19	0	16	80	
	18/2	0	17	25	
	18/1	0	01	50	

[No. O-12016/208/86-ONG-D4]

क्र.सं. 4209 :—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में कलोल जी.जी.एस. 8 से रिजलान्स उद्योग तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तेल तथा प्राकृतिक गैस प्रायोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी सार्वजनिक भूमि को बिछाने के प्रयोजन के लिये एतद्प्रावधान अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का प्रस्ताव आशय एतद्द्वारा घोषित किया है।

बशर्त कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइपलाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी तेल तथा प्राकृतिक गैस प्रायोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ौदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आशय करने वाला हर व्यक्ति निम्नलिखित: यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

रामोल जी.सी.एस. से रिजर्वेशन उद्योग तक पाइप लाइन बिछाने के लिए।

राज्य : गुजरात	जिला : वडोदावाड	तालुका : दसरु	वार्ड नं.	हेक्टेयर	घर	सेंटियर
गांव						
गतराड			173	0	1	50
			174	0	27	15
			175	0	15	00

[सं. O-12016/209/86-प्रो एन जी-डी-4]

S.O. 4210.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Ramol G.C.S. to Reliance Industries in Gujarat State Pipeline should be laid by the Oil & Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto:—

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the Pipeline under the land to the Competent Authority, Oil & Natural Gas Commission, Construction & Maintenance Division, Makarpura Road Vadodara. (390009).

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

Pipeline from Ramol GCS to Reliance Industries.

State : Gujarat Taluka : Daseru District : Ahmed

Village	Block No.	Hect-tare	Are	Centi-tiare
Gatrad	173	0	1	50
	174	0	27	15
	175	0	15	00

[No. O-12016/209/86-ONG-D4]

का.प्रा. 4211.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जी जी एस-X से कालिन्दा-लाइन तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तेल तथा प्राकृतिक गैस प्रायोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिये एतद्प्रावधान अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्द्वारा घोषित किया है।

बतर्क कि उक्त भूमि में बिछाई कोई व्यक्ति, उन भूमि के लिये पाइपलाइन बिछाने के लिए आशय सक्षम प्राधिकारों जैसे तथा प्राकृतिक गैस प्रायोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, वडोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेंगे।

और ऐसा आशय करने वाला हर व्यक्ति निम्नलिखित: यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

जी.जी.एस. X से कालिन्दा लाइन तक पाइप लाइन बिछाने के लिए राज्य : गुजरात, तालुका : गांधीनगर जिला : गांधीनगर

गांव	सर्वे नं.	हेक्टेयर	घर	सेंटियर
(मोपन) राठोड	272	0	18	00
मोपन	273	0	52	50

[सं. O-12016/213/86-प्रो एन जी-डी-4]

S.O.4211.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GGS-X to Collector Line in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara. (390009).

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

Pipeline from GGS X to Collector Line

State : Gujarat Taluka : Gandhinagar District : Gandhinagar

Village	Survey No.	Hect-tare	Are	Centi-tiare
Bhoyan Rathod	272	0	18	00
	273	0	52	50

[No. O-12016/213/86-ONG-D4]

का.प्रा. 4212.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में बटेज से पालेज तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तेल तथा प्राकृतिक गैस प्रायोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिये एतद्प्रावधान अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

मतः सब पेट्रोलियम और खनिज-पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

घरत कि उक्त भूमि में निम्नलिखित कोई व्यक्ति, उस भूमि के नीचे पाइपलाइन बिछाने के लिए आक्षेप सक्षम अधिकारी, तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, वडोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

धेज से पालेज तक पाइप लाइन बिछाने के लिए

राज्य : गुजरात जिला : भरुच तालुका : वागरा

गांव	सर्वे नं.	हेक्टेयर	घार	सेंटियर
1	2	3	4	5
सारण	156	0	41	00
	153	0	08	00
	152/पी	0	59	00
	150/ए	0	30	00
	149	0	14	00
	148	0	23	00
	147	0	22	00
	145/बी	0	20	00
	286/बी	0	01	00
	169	0	19	00
	170	0	47	00
	171	0	12	00
	192	0	11	00
	193	0	26	00
	410	0	08	00
	283	0	55	00
	285	0	07	00
	382/ए	0	47	00
	381/बी	0	14	00
	321/बी	0	36	00
	320/पी	0	09	00
	321/ए	0	04	00
	340	0	00	20
	322/ए	0	03	00
	322/बी	0	22	00
	339	0	13	00
	338	0	47	00
	329	0	03	00
	330	0	34	00
	383	0	13	00
	336	0	05	00

[सं. O-12016/214/86-ओ एन जी-डी-4]

S.O. 4212.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Dahej to Palej in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto.

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara (390009).

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

Pipeline from Dhej to Palej

State : Gujarat District : Bharuch Taluka : Wagra

Village	Survey No.	Hectare	Acre	Centiare
1	2	3	4	5
Saran	156	0	41	00
	153	0	08	00
	152/P	0	59	00
	150/A	0	30	00
	149	0	14	00
	148	0	23	00
	147	0	22	00
	145/B	0	20	00
	286/B	0	01	00
	169	0	19	00
	170	0	47	00
	171	0	12	00
	192	0	11	00
	193	0	26	00
	410	0	08	00
	283	0	55	00
	285	0	07	00
	382/A	0	47	00
	381/B	0	14	00
	321/B	0	36	00
	320/P	0	09	00
	321/A	0	04	00
	340	0	00	20
	322/A	0	03	00
	322/B	0	22	00
	322/B	0	22	00
	339	0	13	00
	338	0	47	00
	329	0	03	00
	330	0	34	00
	383	0	13	00
	336	0	05	00

[No. O-12016/214/86-ONG-D4]

का. मा. 4213—यह केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में रूप सं. के-392 से जो. जी. एस.-III तक पेट्रोलियम के परिवहन के लिए पाईप लाईन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतद्वारा अनुसूची में वर्णित भूमि में उपयोग का अधिकार प्रजित करना आवश्यक है।

अतः भव पेट्रोलियम और खनिज पाईप लाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार प्रजित करने का अपना आशय एतद्वारा घोषित किया है।

यद्यपि कि उक्त भूमि में हितवद्ध कोई व्यक्ति, उस भूमि के नोबे पाइपलाइन बिछाने के लिए आशय सक्षम प्राधिकारी तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बबीदा - 9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आशय करने वाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी को मार्फत।

अनुसूची

कलोल-392 से जी. ओ. एस. III तक पाईप लाईन बिछाने के लिए।

राज्य : गुजरात जिला : मेहसाणा तालुका : कलोल

गांव	ब्लॉक नं.	हेक्टेयर	घारे.	सेन्टीयर
वडावस्वामी	340	0	06	30
	341	0	06	90
	339	0	20	25
	335	0	16	40
	333	0	10	50
	334	0	08	60

[सं. O-12016/206/86-मो एन जी-डी 4]

S.O. 4213.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Well No. K-392 to G.G.S. III in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara. (390009).

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

Pipeline from Kalol-392 to GGS. III-Kalol

State : Gujarat Taluka : Kalol District : Mehsana

Village	Block No.	Hecta- tare	Are	Cent- Tlarc
Wadawaswami	340	0	06	30
	341	0	06	90
	339	0	20	25
	335	0	16	40
	333	0	10	50
	334	0	08	60

[No. O-12016/206/86-ONG-D 4]

का. धा. 4214:—यस केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में रामोल जी. ओ. एस. से रिवायस उद्योग तक पेट्रोलियम के परिवहन के लिए पाईप लाईन तैल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जाना चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन लिए एतद्वारा अनुसूची में वर्णित भूमि में उपयोग का अधिकार प्रजित करना आवश्यक है।

अतः भव पेट्रोलियम और खनिज पाईप लाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार प्रजित करने का अपना आशय एतद्वारा घोषित किया है।

यद्यपि कि उक्त भूमि में हितवद्ध कोई व्यक्ति, उस भूमि के नोबे पाइपलाइन बिछाने के लिए आशय सक्षम प्राधिकारी तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बबीदा - 9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आशय करने वाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी को मार्फत।

अनुसूची

रामोल जी. ओ. एस. से रिवायस उद्योग तक पाईप लाईन बिछाने के लिए।

राज्य : गुजरात जिला : महमदाबाद तालुका : वस कोई

गांव	सर्वे नं.	हेक्टेयर	घारे.	सेन्टीयर
1	2	3	4	5
वस्त्रात	542	0	1	50
	539	0	6	00
	538	0	6	00
	540	0	9	60
	536	0	3	60
	535	0	0	60
	529	0	6	00
	530	0	12	00
काटे ट्रंक	0	1	50	
	345	0	6	60
	346	0	14	40
	347	0	0	60
	348	0	8	55
	349	0	6	00
	340	0	6	00
	341	0	6	60
	339	0	0	60
	338	0	15	60
	334	0	6	75
	335	0	0	60
	336	0	15	60
	323	0	3	60
	327	0	1	50
	324	0	9	60
	326	0	9	60
	325	0	12	00
	311	0	16	80
	310	0	15	60
	273	0	18	00
	272	0	14	40
	271	0	16	80

[सं. O-12016/205/86-मो एन जी-डी 4]

S.O. 4214.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Petroleum from Ramol G.C.S. to Reliance Industries in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara. (390009).

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

Pipeline from Ramol G.C.S. to Reliance Industries				
State : Gujarat Taluka : Dascroi District : Ahmedabad				
Village	Survey No.	Hectare	Acre Centiare	
1	2	3	4	5
Vastral	542	0	1	50
	539	0	6	00
	538	0	6	00
	540	0	9	60
	536	0	3	60
	535	0	0	60
	529	0	6	00
	530	0	12	00
	Cart Track	0	01	50
	345	0	6	60
	346	0	14	40
	347	0	0	60
	348	0	8	55
	349	0	6	00
	340	0	6	00
	341	0	6	60
	339	0	0	60
	338	0	15	60
	334	0	6	75
	335	0	0	60
	336	0	15	60
	323	0	3	60
	327	0	1	50
	324	0	9	60
	326	0	9	60
	325	0	12	00
	311	0	16	80
	310	0	15	60
	273	0	18	00
	272	0	14	40
	271	0	16	80

[No. O—12016/205/86-ONG-D4]

का. भा. 4215 :—यतः केन्द्रिय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में दहेज से पालेज तक पेट्रोलियम के परिवहन के लिए पाइप लाइन तैयार तथा प्राकृतिक गैस प्रयोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसा लाइन को बिछाने के प्रयोजन के लिए एतदुपाय अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

यद्यपि कि उस भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नाबे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी तैयार तथा प्राकृतिक गैस प्रयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, वडोदरा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी को मार्फत।

अनुसूची.

दहेज से पालेज तक पाइप लाइन बिछाने के लिए

राज्य : गुजरात जिला : भकच तालुका : वागारा

गांव	ब्लॉक नं.	हेक्टेयर	आरे.	सेन्टायर
1	2	3	4	5
मटाली	275	0	25	00
	274	0	08	00
	276	0	00	08
	271	0	34	00
	270	0	12	00
	240	0	37	00
	241/ए	0	28	00
	242	0	20	00
	243/बी	0	05	00
	243/ए	0	00	32
	247/ए	0	07	00
	239	0	00	16

ह./—सक्षम प्राधिकारी

कुछे गुजरात राज्य एरिया बडोवरा

[सं. O—12016/215/86—प्रार्थन 4]

पो. के. राजगोपालन, डैस्क अधिकारी

S.O. 4215.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Dabej to Palej in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara, (390009).

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

Pipeline from Dahej to Palej

State : Gujarat District : Bharuch Taluka : Wagara

Village	Block No.	Hec- tare	Are Cen- tiare
Atali	275	0	25 00
	274	0	08 00
	276	0	00 08
	271	0	34 00
	270	0	12 00
	240	0	37 00
	241/A	0	28 00
	242	0	20 00
	243/B	0	05 00
	243/A	0	00 32
	247/A	0	07 00
	239	0	00 16

Sd/-

Competent (Authority) for Gujarat State Area, Vadodara

[No. O-12016/215/86-ONG-D4]

P. K. RAJAGOPALAM, Desk Officer.

धम मंत्रालय

नई दिल्ली, 4 दिसम्बर, 1986

का. आ. 4216.—उत्प्रवास अधिनियम, 1983 (1983 का 31) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उत्प्रवासी संरक्षी, मद्रास के कार्यालय के सहायक श्री आर. सुन्दरलाल को 22 दिसम्बर, 1986 से 30 दिसम्बर, 1986 की अवधि तक उत्प्रवास संरक्षी मद्रास के समस्त कार्य करने के लिए प्राधिकृत करती है।

[संख्या ए-22012/1/86-उत्प्रवास-II]

अमित दास गुप्ता, अवर सचिव

MINISTRY OF LABOUR

New Delhi, the 4th December, 1986

S.O. 4216.—In exercise of the powers conferred by Section 5 of the Emigration Act, 1983 (31 of 1983), the Central Government hereby authorises Shri R. Sundar Lal, Assistant in the office of the Protector of Emigrants, Madras to perform all functions of Protector of Emigrants, Madras during the period from 22nd December, 1986 to 30th December, 1986.

[No. A-22012(1)/86-Emig. II]

AMIT DASGUPTA, Under Secy.

नई दिल्ली, 5 दिसम्बर, 1986

का.आ. 4217.—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (द) के उपखंड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का. आ. 2222 दिनांक 27 मई, 1986 द्वारा लोह अयस्क खनन उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 9 जून, 1986 से छह मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया गया था।

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छह मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है ;

अतः अब औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (द) के उपखंड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के

लिए 8 दिसम्बर, 1986 से छह मास की और कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[सं. एस-11017/12/85-डी-1(ए)]

नन्द लाल, अवर सचिव

New Delhi, the 5th December, 1986

S.O. 4217.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provision of sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. No. 2222 dated the 27th May, 1986 the iron ore mining industry to be a public utility service for the purposes of the said Act, for a period of six months, from the 9th June, 1986;

And, whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act, for a further period of six months from the 8th December, 1986.

[No. S-11017/12/85-D.I(A)]

NAND LAL, Under Secy.

का.आ. 4218.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रिय सरकार, मै. सिंगरेनी कोलरीज कं. लिमिटेड, पोस्ट-गोदावरी-खानी, जिला करामनगर (आन्ध्र प्रदेश) के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचाट को प्रकाशित करती है, जो केन्द्रिय सरकार को 26-11-1986 को प्राप्त हुआ था।

S.O. 4218.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Singareni Collieries Co. Ltd., P.O. Godavarikhani, Distt. Karim Nagar (A.P.) and their workmen, which was received by the Central Government on the 26th November, 1986.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL (CENTRAL)
AT HYDERABAD

Industrial Dispute No. 6 of 1984

BETWEEN

The Workman of Singareni Collieries Company Limited,
Ramagundam Division-II Godavarikhani Karim-
nagar District, A.P.

AND

The Management of M/s. Singareni Collieries Company
Limited, Ramagundam Division-II, Godavarikhani,
Karimnagar District, A.P.

APPEARANCES :

Sarvasri P. Vittal Rao and V. Sudhakar Reddy, Advo-
cates—for the Workmen.Sarvasri K. Srinivasa Murthy, H. K. Saigal and Miss
G. Sudha, Advocates—for the Management.

AWARD

The Government of India, Ministry of Labour and Rehabilitation, by its Order No. L-22011/7/83-D.III (B) dated 10th February 1984 referred the following dispute under Section 7-A and 10(1)(d) of the Industrial Disputes Act, 1947 between the employers in relation to the Management of Messrs Singareni Collieries Company Limited, Ramagundam Division-II, Post Office Godavarikhani District Karimnagar (A.P.) to this Tribunal for adjudication :

"Whether the action of the management of Messrs Singareni Collieries Company Limited, Ramagundam Division-II P.O. Godavarikhani District Karimnagar

(A.P.) in dismissing from service with effect from 17-8-1982 Sri Samudrala Lingaiah, Coal Filler, Godavarikhani 6-A Incline is justified? If not, to what relief is the workman concerned entitled?"

This reference was registered as Industrial Dispute No. 6 of 1984 and notices were issued to the parties.

2. The claims statement for the workmen it is mentioned that he had been appointed as Badli Filler for the year 1977 in 6-A Incline, Godavarikhani of the Respondent Company and subsequently he is made permanent as Coal Filler in the same Incline. It is his case that he was charge sheeted on 17-6-1982 alleging that he instigated and organised strike in the Collieries. He denied the said charges levelled against him stating that it is done with mala fide intention to dismiss him. It is the workman's case that the Enquiry Officer was appointed who gave notice on 23-6-1982 stating that the enquiry is posted on 28-3-1986 at 3.30 p.m. and the same was adjourned to 5-7-1982 at 8.30 a.m. on his request. He requested the Enquiry Officer to conduct the proceedings in Telugu and also to be represented by a Trade Union leader; the Enquiry Officer refused to permit him to be represented by a Trade Union leader during the enquiry. It is his case that the Enquiry Officer adjourned the enquiry proceeding and informed him that the next date of adjournment in view of the enquiry will be communicated to him. It is also his case that they gave him proceedings on 5-7-1982 itself stating that the complete proceedings of the enquiry will be conducted in Telugu only. Thereafterwards it is his case that the next date of enquiry was not informed to him and he was served with dismissal order dated 9-8-1982 on him on 29-8-1982. The averment in the order of dismissal are absolutely false. The Petitioner was not given any notice of adjournment of enquiry on 5-7-1982. He was not given any opportunity to defend himself. Thus there is clear violation of principles of natural justice. The order of the Respondent is arbitrary, unfair, unjust and unreasonable. The Petitioner is an Executive Member of the Registered Trade Union, Godavari Ioya Boggugani Karmika Sangham. The dismissal order is nothing short of unfair labour practice and victimisation it violated the Standing Orders 16(a)(b) and (c) of the company certified under Section 5 of the Industrial Employment (Standing Orders) Act, 1946.

3. The Management filed a counter stating that it was true that he was appointed on 20th July, 1976 in Godavari Khani, 6-A Incline as worker trainee and was absorbed as Coal Filler with effect from 1-11-1979. There was an illegal strike in Godavari Khani 6-A Incline on 24-5-1981 in which the workmen also participated. On 2-6-1981 the Petitioner stopped the workers from attending duty in the third shift from 11.00 p.m. to 12.00 p.m. and on 3-6-1981 he also instigated the workmen in third shift at 11.00 p.m. and himself taking a leading part in it. As a result of illegal strike the Respondent Management had lost of 7482 tonnes of coal to the value of Rs. 72,483.00 under the compelling circumstances the Management taken action against the petitioner and suspended him for six days from 17-6-1982 to 23-6-1982 for inciting the workmen to go on illegal strike and also for taking leading part in it. He had not only instigated the strike but also lead the coal fillers to the cycle shed, deflated the cycle tyres of the loyal workmen in the same shift and instigated the coal fillers to throw the lamps outside the lamps room. After calling for an explanation for the misconduct he was charge sheeted under Standing Orders 16(9), 16(19) and 16(2), the explanation was not found satisfactory by the Management. A domestic enquiry was conducted by the Enquiry Officer at the commencement of the enquiry on 5-7-1982 the Petitioner was explained the charges in Telugu by the Enquiry Officer the delinquent wanted the Enquiry Officer that the proceedings should be conducted and recorded in Telugu but the Enquiry Officer explained to him about the practice of the company that the proceedings of the enquiry would be conducted in Telugu but the record of proceedings would be in English. It is denied that the petitioner wanted help of a Trade Union leader to be present during the enquiry. Thus it is mentioned that there is no question of refusal by the Enquiry Officer did not arise. It is also mentioned that the enquiry officer did not mention that he would inform the next date of enquiry by way of communication and that he sought for adjournment. On the other hand the real facts that the petitioner requested in writing for adjournment of enquiry proceeding and the Enquiry Officer informed him that his request was not agreed to for postponement of the enquiry and as such he should participate in the enquiry.

On this the petitioner informed the Enquiry Officer that he did not want to participate in the enquiry. The Enquiry Officer made him known that the proceedings would be conducted ex parte. On this the petitioner walked out from the Enquiry Officer's room stating that he would not participate in the enquiry. Thus the question of giving another notice did not arise after postponement of the enquiry. There is no violation of principles of natural justice. Having regard to the gravity of the charges and his past record the Petitioner was dismissed from Company's service by a proceeding dated 9-8-1982 with effect from 17-8-1982 and when he refused to receive the letter on 16-8-1982 finally on 29-8-1982 as he came to office and took the dismissal letter. The Management is not aware that he is a Trade union executive Member. The enquiry is conducted in a fair manner by observing the principles of natural justice.

4. At the outset when the matter was posted for deciding the validity of the domestic enquiry the Counsel for the workman Sri P. Vithal Rao raised a preliminary objection that the question of deciding the validity of the domestic enquiry as a preliminary issue is itself unwarranted and uncalled for and the said procedure was not laid down under the Industrial Disputes Act in any section of law or Central or State Rules framed thereunder. He asserted that there is no question of deciding the validity of the domestic enquiry as a preliminary issue and then again giving opportunity to the management to adduce fresh evidence to justify its action. After hearing both sides exhaustively this Tribunal held that the said objection of the learned counsel Sri P. Vithal Rao is not tenable either on facts and or any law and proceeded with the domestic enquiry on 31-7-1985 in M.P. No. 65 of 1985.

5. Thus the matter was posted for holding that the domestic enquiry was held properly or not.

6. After number of adjournments on behalf of the Management MW-1 was examined on 9-4-1986 and Exs. M-1 to M-7 were marked and the Management closed their evidence. The Workmen counsel reported that they have no evidence. On 25-4-1986 after hearing the arguments it was held that the domestic enquiry conducted by the Management is vitiated. It is part of the record.

7. The matter was posted for further evidence of the Management to 1-5-1986. After four adjournments the Management was ready on 29-7-1986 and MW-2 is examined. Ex. W-1 is marked. The matter was adjourned to 30-7-1986 and MW-3 is examined. Thereafterwards the Management took further time for producing the witnesses to 21-8-1986. On 21-8-1986 both parties present and MW-4 and 5 were examined in chief and Ex. M-8, M-8a, M-9m, M-10, M-11, M-11(a) and 11(b) and 11(c) and 12 are marked. In the afternoon as the Court was engaged in I. D. No. 63 of 1986 at the request of the counsel the matter was adjourned to another date for cross examination of MW-4 and MW-5. It is posted to 4-9-1986. On 4-9-1986 Miss G. V. Lakshmi filed a Memo which is M.P. No. 284/86 on behalf of the Management stating that they are moving the application for transfer of all their cases from this Tribunal to another Tribunal and wanted adjournments. The concerned workman S. Lingiah was present and his Counsel was absent therefore it is posted to 5-9-1986. On 12-9-1986 finally the said M.P. No. 284/86 filed by the Management is rejected and it is posted for cross examination of MW-4 and MW-5 and for further evidence of the Management if any to 1-10-1986. On 1-10-1986 the Workers Counsel present and ready to cross examine MW-4 and MW-5. But MW-4 and MW-5 were not present and there is no representation for the Management. It is mentioned on 1-10-1986 itself that final chance is given to the management to produce MW-4 and MW-5 on 15-10-1986 for cross examination failing which the evidence of MW-4 and MW-5 will be eschewed and in case MW-4 and MW-5 are not produced for evidence it will be deemed that the management had no further evidence also on their behalf and next steps will be ordered. On 15-10-1986 the Workers Counsel was present and ready and the Workman was also present and ready. The Management and its counsel called absent. There was no representation on their behalf. MW-4 and MW-5 who were examined in chief on 21-8-1986 and from that time onwards the Management though given sufficient time till 15-10-1986 and waited upto 1.30 p.m. Neither MW-4 and MW-5 were present nor their counsel was present or any representation is made by the party seeking any time. In fact the counsel for the workman also filed a Memo M.P. No. 401/86 to the same effect and sought for passing further orders accord-

ing to law. In the given circumstances the said M.P. No. 401/86 is allowed and as per the previous orders dated 1-10-1986 the evidence of MW-4 and MW-5 was eschewed from records and the matter is posted for arguments to 18-10-1986. The matter was adjourned finally till 22-10-1986 for arguments and on 22-10-1986 the arguments of the workmen counsel was completed and reserved for award. The Management did not choose to come forward to adduce any evidence or seek time or advance the arguments. This is an old matter concerning the dismissal of a workman in 1982 and the management is given fair and ample opportunity to defend their action and no further time can be given.

8. Coming to the evidence of MW-1 who is appointed as Enquiry Officer, he deposed that he knew the workman Samudrala Lingaiah and marked a charge sheet as Ex. M-1. According to him the Colliery Manager after giving notice to the workmen posted the case for enquiry and sent the paper to him along with the charge sheet that he received the paper on 5-7-1982. It is his case that the case was postponed to 5-7-1982 on an application under Ex. M-2 dated 28-6-1982 and that he took up the enquiry on 5-7-1982 for the first time.

9. It is admitted that on 5-7-1982 the workman was present. He also admitted that S. Lingaiah denied all the charges mentioned except that he has participated in the strike along with others. He conceded that S. Lingaiah wanted him to conduct the enquiry in Telugu and also wanted the proceedings to be recorded in Telugu but he promised to conduct the proceedings in Telugu while recording the same in English as per the existing practice. It is his case that he was not satisfied with the explanation and gave a letter on 5-7-1982 to the Colliery Manager under Ex. M-3. In substance Ex. M-3 wanted the Colliery Manager to arrange for conducting the enquiry in Telugu. But the Colliery Manager immediately replied to him under Ex. M. 4 on the same date stating that the proceeding will be conducted in Telugu and it would be recorded in English. At that time it is the case of the Management as per MW1 that S. Lingaiah gave a letter under Ex. M5 dated 5-7-1982 stating that he is not doing well and wanted the enquiry to be postponed to 2 to 3 days but the enquiry was proceeded ex parte, that he did not participate and S. Lingaiah did not sign the proceedings on 7-5-1982 and walked out from the enquiry. It is admitted by MW1 he conducted the enquiry ex parte after S. Lingaiah left and he examined five witness for the management as mentioned in the report. The enquiry proceedings are marked as M6 and the report is marked as Ex. M7. It is his specific case that the workman did not take the assistance of any Trade Union Leader during the enquiry proceedings and he followed the principles of natural justice. It is also his case that he refused adjournment after 5-7-1982 or on 5-7-1982. He conceded that as an Enquiry Officer that he did not give any adjournment as sought for. He also admitted that he did not give notice to the workmen that he is proceeding with the enquiry ex parte. According to him such a notice was posted on notice board.

9. M.W. 2 who is the Assistant Manager, GDK Incline at the relevant time identified S. Lingaiah and deposed that he was working as Under Manager for the Mine for the first shift A Relay and the workers were deployed in different relay so that the relay moves in rotation covering all the three shifts. According to him on 6-6-1982 in GDK 6A Incline there was no problem till 7 A.M. and the workers shall go down into the mine by 7.30 A.M. by which time the distribution of work will be over. On that day the workers instead of going down were stationed at pit-mouth and S. Lingaiah was also along with them. It is his case that he was giving a lecture that in the adjacent mine GDK 7 Incline it was close and the workers of the Mine have struck work and that they should strike work sympathetically with them. According to MW2, along with himself Collieries Manager wanted the workers of this mine to go to work as they had no problem in their Mine and go down but it is his case that S. Lingaiah and other workers lead by him went to return their Lamps to the Lamp room and thus these persons along with S. Lingaiah went to the cycle shed and from there they went home. It is also his case that S. Lingaiah with a group of persons went to the Hauler Room of Chella Rajaiah to stop his work and they left without his permission. In the cross examination he could not say how many of 1600 workers working in 6A Incline Mine, how many Unions are there and added that there is only one recognised union organised by A.I.T.U.C.

He could not say whether S. Lingaiah belonged to any other union. It is his case that 100 persons lead by S. Lingaiah were on strike which continued for three shifts and except those 100 persons the rest of those persons have gone down into the mine. He also further clarified there were 200 workers who worked till the end of 3.00 P.M. and he could not say who else struck work along with S. Lingaiah among those 100 persons. According to him till 7.30 A.M. there was no strike and he gave only oral report to the Colliery Manager and did not give written report against S. Lingaiah to Colliery Manager and he could not say what was the exact problem at 7 incline. He admitted that there is no Security Guard posted at the Mine and he conceded that none of 100 persons were arrested. It is his case that the enquiry S. Lingaiah and other workers approaching them to work, that they would not go into the Mine as there was strike in the other Mine. He admitted that it is the responsibility of the Colliery Manager to call the security guards as the workers were disturbing the work and he could not mention persons who was in charge of the Lamp room and who were the Security Guards at that time. He also conceded that no one gave any complaint against S. Lingaiah. It is his case that Chella Rajaiah, Hauler Driver gave oral complaint against S. Lingaiah and that he did not note the complaint in any of the registers maintained by him. He also conceded that he did not report that Chella Rajaiah gave a complaint against S. Lingaiah stating that he was prevented from doing work. He was not aware that the Union called "Godavari Loya Boggughani Karmika Sangham". He conceded that on the next day all the workers attended the mine and that out of 100 workers who absented on the previous day only S. Lingaiah was dismissed and regarding others no action was taken. It is suggested to him that S. Lingaiah being the Trade Unionist and being executive member of the Godavari Loya Boggughani Karmika Sangham, he was dismissed and victimised, but the suggestion is denied. He expressed his ignorance that a criminal complaint was filed in C.C. 205 of 1983 on the file of JFCM, Sultanabad and the same resulted in the discharge of persons including S. Lingaiah as per the certified copy under Ex. W-1 and that there were five accused in the said charge sheet as per Ex. W-1. He conceded that no action was taken against four other accused in the said criminal complaint in a similar manner. It is suggested that it amounted to discrimination and victimisation but he denied the same. He could not say that S. Lingaiah knows only to sign his name and that he did not know to read and write. Thus even as per the evidence of MW-2 it is his case that S. Lingaiah and other workers number 99 did not go into the Mine to work and that S. Lingaiah is singled out. Even under Ex. W-1 it showed that S. Lingaiah as an accused in C.C. 205/83 and that there were four others shown as accused and all the five were discharged as per the Criminal case M.P. No. 875/85 on the file of the said Court. That shows that there was no written complaint against S. Lingaiah even by the Colliery Manager who was present from 7.00 a.m. when the strike started from 7.30 a.m. and that even Chella Rajaiah who is the Hauler Driver did not give any written complaint to MW-1 or MW-2 that S. Lingaiah instigated him and others and leading the strike as the leader of the workers Chella Rajaiah was not noted and examined anywhere in the records. Even eschewed evidence would show that the Management did not choose to examine him while MW-4 and MW-5 were examined in chief and they did not choose to examine Chella Rajaiah as their witnesses to support their case. Without examining the real person involved namely Chella Rajaiah and without making available MW-4 and MW-5 for cross examination even after sufficient time is given this Tribunal had occasion to eschew their evidence as not to be looked into, in given circumstances as could be seen from the document record.

10. So there remains the evidence of MW-5 who is the Under Manager in the general shift at the relevant time. According to him he saw S. Lingaiah was talking to his colleagues and some of the co-workers were discussing that on 6-6-1982 first shift in Relay A nobody should go into the Mine and should show sympathy to those workers who were on strike in GDK 7 incline. At that time S. Lingaiah told his colleagues and other that nobody should go down and when Colliery Manager and himself convinced some workers went inside while 100 workers remained there. But in his cross examination he admitted that no worker was suspended except S. Lingaiah and that the Management did not give any complaint to the Police but Ex. W-1 shows

The other way that there was a complaint given and it was also retained in discharge of the workers including S. Lingaiah. According to him S. Lingaiah and other workers deflated the tyres of cycle and it cannot be said that S. Lingaiah should alone be singled out. According to him the entire incident occurred from 7.30 a.m. to 11.30 a.m. and they were witnessing the incident and they were also explaining the workers to go down the mine and yet they did not call for security guard or Police during this period when the incident occurred. Finally he conceded that the workers were discussing among themselves to go down into the Mine or not. He could not say even whether any action was taken or no action was taken at all against the workers of 7-A Incline as they were admittedly on strike on that date. It is his case that he did not give written report as the Colliery Manager was present throughout the incident. Thus the Colliery Manager is not examined who was the real person who witnessed the incident from 7.30 to 11.30 a.m. and there was no written complaint given by him or by P.W-2 and P.W-3 against S. Lingaiah that he was instigating and leading 100 workers and there is thus when MW-3 says that the workers were discussing among themselves to go down the Mine are not and when MW-2 mentioned that S. Lingaiah and others were going away from the work, S. Lingaiah cannot be singled out especially when Ex. W-1 shows that others who were prosecuted along with him were discharged for the same incident by the Court. So the responsibility that he was instigating and leading the strike contrary to the Standing Orders is on the Management and there is no written complaint by any one even by Colliery Manager who was witnessing that occurrence. He had put in more than four and a half years service as a permanent workman. There are disputes in Union as per the evidence of MW-3 as the leader of the A.I.T.U.C. was also murdered and there are other Unions and the Management could not say there is no such Union as Godavari Loya Boggughani Karmika Sangham. On the other hand S. Lingaiah asserted that he was Trade Union activists and executive member of the Union and the Management could not say that there is no such Union. In *Shambhunath v. Bank of Baroda* (AIR 1984 S.C. page 289) it was laid down that the application for the management to seek the permission of the Court for availing the right to adduce further evidence to substantiate the charge or charges framed against the workman who chose to exercise its right at the earliest stage and filed the application for that purpose without any unreasonable delay. It is laid down that the Management cannot be given further opportunity to cure the defect in the domestic enquiry when the same was pointed out by the workman in his written claims statement as the same may result in wrecking the moral of the workman. So in the instant case when the workman is not permitted to have a Trade Union leader to assist him and when the Enquiry Officer did not give even a single date of adjournment as sought for after he took charge of the enquiry matter and when the domestic enquiry is held to be vitiated, the Management cannot be further permitted to file an application to adduce further evidence when the defect in the domestic enquiry is pointed out by the workman in his written claims statement filed before the Tribunal is established. Similarly in *Vedprakash v. M/s. Delfon Cable India (P) Ltd.* (1984 AIR, S.C. Page 914) held that the extreme penalty of dismissal from service to the appellant even if he had in fact abused in filthy language is shockingly disproportionate regarding being had the charge framed against him. In the instant case there is no complaint by the Colliery Manager that S. Lingaiah instigated and lead 100 workmen and the criminal complaint filed by the Management against S. Lingaiah and others had result in discharge of all of them and he was singled out. There was no allegation even of abusing executives of management including colliery Manager by the delinquent. The evidence of MW-2 and MW-3 would show that S. Lingaiah and other workers were discussing about going inside the Mine or not. So when a person who abused in filthy language is also condoned as per the judgement in AIR 1984 S.C. 914 that surprisingly for no fault of S. Lingaiah he was singled out and discriminated by way of dismissal. Similarly in *Rajinder Kumar v. Delhi Administration* (AIR 1984 S.C. 1805) when a finding of misconduct by domestic enquiry is held to be based upon no evidence and when it is reflected it was held that the Court would be perfectly justified in exercising its powers conferred by Section 11-A when the said findings are perverse. It is also held by the Supreme Court that Industrial Tribunal or the Arbitrator or a Quasi Judicial Authority can reject not only such findings but also

conclusion based on no legal evidence. In the instant case also it must be held that the findings that he instigated and lead the striking workers is based upon no legal evidence and it is merely based on surmises and conjectures unrelated to the evidence. As per the said judgement in AIR 1984 S.C. page 1805 Para 20 when the order of dismissal is sought to be sustained on a finding in the domestic enquiry which shows to be perverse and the enquiry is vitiated as suffering from non-application of mind the only course open to me is to set it aside and consequently grant the relief of reinstatement and nothing was pointed to me why I should not grant the same.

11. Thus on a careful consideration of the entire evidence following the said judgement, I hold that the action of the Management of M/s. Singareni Collieries Company Limited, Ramgundam Division-II, GDK in dismissing Samudrala Lingaiah, Coal Filler from service with effect from 17-8-1982 is not justified and that he is entitled for reinstatement with full back wages and all other attendant benefits.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this the 10th day of November, 1986.

J. VENUGOPALA RAO, Industrial Tribunal

Appendix of Evidence

Witnesses Examined for the

Management :

MW-1—Y. Venkateswarlu

MW-2—Suresh

MW-3—D. V. Ramana Reddy

MW-4—T. Surya Prakash Eschewed from records.

MW-5—P. Samuel Eschewed from records.

Witnesses Examined for the

Workmen :

NIL

Documents marked for the Management

Ex. M-1—Charge Sheet No. GDK/6-A/82/06-G/1499 dated 17-6-82 issued to Samudrala Lingaiah by the Colliery Manager, GDK No. 6-A Incline.

Ex. M-2—Letter dated 25-6-82 addressed by Samudrala Lingaiah to the Colliery Manager 6-A Incline requesting for adjournment.

Ex. M-3—Letter dated 5-7-82 addressed by Samudrala Lingaiah to the Colliery Manager, G.D.K. 6-A incline requesting to conduct the enquiry in Telugu.

Ex. M-4—Letter dated 5-7-82 addressed by Colliery Manager, Godavari Yhani No. 6-A Inclines to Samudrala Lingaiah informing him that the enquiry recorded will be duly read over and explained to him in Telugu by the enquiry officer.

Ex. M-5—Letter dated 5-7-82 addressed by Samudrala Lingaiah to the Colliery Manager, G.D.K. 6-A Incline requesting for adjournment on the ground that he is unwell.

Ex. M-6—Enquiry Proceedings.

Ex. M-7—Enquiry Report.

Ex. M-8—Daily out put Book pertains to G.D.K. 6-A.

Ex. M-8(a)—Daily Target for the month of June 1982 in Ex. M-8 at Page 42.

Ex. M-9—Form 'C' Register.

Ex. M-10—Register of persons Employed above ground during the month of June 1982, in Ex. M-9 at page 26.

Ex. M-11—Overman's report book part I for June, 1982.

Ex. M-11(a) Overman's report book Part I for 6-6-82 in Ex. M-11 at page 15.

Ex. M-11(b)—Overman's report book Part II for 6-6-82 in Ex. M-11 at page 16.

Ex. M-11(c)—Overman's report book Part II for 7-6-82 in Ex. M-11 at page 17.

Ex. M-12—True Copy of the extract of Form N. Pertains to Godavari Khani 6-A Incline.

Documents marked for the Workmen

Ex. W-1—Photostat copy of the order dated 15-4-1985 in C.C. No. 205/83 on the file of the Court of Judicial Magistrate of F.C. at Sultanabad.

Dated : 14-11-1986.

J. VENUGOPALA RAO, Industrial Tribunal

[No. L-22011/7/83-D.III (B)]

V. K. SHARMA, Desk Officer

नई दिल्ली, 8 दिसम्बर, 1986

का.भा. 4219 :—केन्द्रीय सरकार को यह प्रतीत होता है कि निम्नलिखित स्थापन से सम्बद्ध नियोजक और कर्मचारियों को बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) के उपबन्ध सम्बन्धित स्थापन को लागू किये जाने चाहिये :—

1. मैसर्स एम के डीजल्स प्राईवेट लिमिटेड, ट्रान्सपोर्ट नगर कोरबा बिलासपुर
2. मैसर्स सरस्वती प्रिंटिंग प्रेस, महासमुन्द कस्बा, रायपुर
3. मैसर्स कोलाम्बिया इन्टेलीविजनस एन्ड टेलीकम्युनिकेशनस प्राईवेट लिमिटेड, ई 4/153, अरेरा कालोनी, भोपाल और इसकी महाराना प्रताप नगर भोपाल स्थित शाखा।

अतः केन्द्रीय सरकार उक्त धारा नियम की धारा 1, की उप धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबन्ध उक्त स्थापनों को लागू करती है।

[सं. एस 35019(184)/86-एस एस-2]

New Delhi, the 8th December, 1986

S.O. 4219.—Whereas it appears to the Central Government that the employers and the majority of the employees in relation to the following establishments have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to their respective establishment, namely :—

1. M/s. M. K. Diesels Private Limite, Transport Nagar, Bilaspur.
2. M/s. Saraswati Printing Press, Mahasamund District Raipur.
3. M/s. Columbia Intelevisions and Telecommunications Private Limited, E-4/153, Arera Colony, Bhopal, including its branch at Maharana Pratap Nagar, Bhopal.

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the above mentioned establishments.

[No. S. 35019(184)/86-SS-II]

का.भा. 4220 :—केन्द्रीय सरकार को यह प्रतीत होता है कि निम्नलिखित स्थापन से सम्बद्ध नियोजक और कर्मचारियों को बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) के उपबन्ध सम्बन्धित स्थापन को लागू किये जाने चाहिये :—

1. मैसर्स कमल टाकीज, 48 सिविल लाईन्स, बरेली
2. मैसर्स प्रसाद टाकीज, बरेली
3. मैसर्स नगिनादास कीला भाई प्राईवेट लिमिटेड, किशोरी निवास, ब्रह्मना रोड, कानपुर
4. मैसर्स पूनम टाकीज, एन 2 रोड, लाल बंगला, कानपुर

अतः केन्द्रीय सरकार उक्त धारा नियम की धारा 1, की उपधारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबन्ध उक्त स्थापनों को लागू करती है।

[सं. एस-35019(185)/86 एस एस-2]

S.O. 4220.—Whereas it appears to the Central Government that the employers and the majority of employees in relation to the following establishments have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to their respective establishments, namely :—

1. M/s. Kamal Talkies 46, Civil Lines, Bareilly.
2. M/s. Prasad Talkies, Bareilly.
3. M/s. Nagindas Kilabhai (Private) Limited, Kishori Nivas Birhana Road, Kanpur.
4. M/s. Poonam Talkies, N-2 Road, Lal Bangalow, Kanpur.

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the above mentioned establishments.

[No. S. 35019(185)/86-SS-II]

नई दिल्ली, 11 दिसम्बर, 1986

का.भा. 4221 :—केन्द्रीय सरकार, कर्मकार प्रतिकर अधिनियम, 1923 (1923 का 8) की धारा 3 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट रोग और नियोजन उक्त अधिनियम की अनुसूची 3 के भाग ग में जोड़ने के अपने आशय की सूचना देती है।

उक्त संवर्द्धन की बाबत ऐसे किसी भी आक्षेप या सुझाव पर, जो इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से चार मास की समाप्ति से पूर्व प्राप्त हो, केन्द्रीय सरकार द्वारा विचार किया जाएगा।

अनुसूची

“व्यावसायिक रोग	नियोजन
6. एक्यूट पुलमोनरी ओडिमा आफ़ हाई एल्टिट्यूड	सम्बन्धित जोखिम से उच्च- छन्न सभा कार्य।”

[संख्या एस-37018/1/79-एच.आई. (एस.एस 1)]

New Delhi, the 11th December, 1986

S.O. 4221.—In exercise of the powers conferred by sub-section (3) of section 3 of the Workmen's Compensation Act, 1923 (8 of 1923), the Central Government hereby gives notice of its intention to add the diseases and employments, specified in the Schedule annexed hereto, in part C of Schedule III to the said Act.

2. Any suggestions or objections which may be received from any person in respect of the said addition before the expiry of four months from the date of publication of this notification in the Official Gazette, will be considered by the Central Government.

THE SCHEDULE

OCCUPATIONAL DISEASES	EMPLOYMENT
6. Acute Pulmonary Oedema of High altitude	All work involving exposure to the risk concerned.”

[F. No. S-37018/1/79-HI (SS I)]

का.आ. 4222 :—केन्द्रीय सरकार को यह प्रतीत होता है कि निम्नलिखित स्थापन से सम्बन्धित नियोजक और कर्मचारियों को बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारों भविष्य निधि और प्रकाशन उपबन्ध अधिनियम, 1952 (1952 का 19) के उपबन्ध सम्बन्धित स्थापन को लागू किये जाने चाहिए :—

1. मैसर्स पैरागांव डिस्ट्रिक्ट एण्ड सिक्कूरिटी एजेंसी प्राइवेट लिमिटेड, नं. 116/2, 11 फ़ास मलेश्वरम, बंगलौर-3
2. मैसर्स हास्पेट को-ऑपरेटिव सिटी बैंक लिमिटेड, वाई नं. 1583 हास्पेट-1
3. मैसर्स आई टी आई इम्प्लाई यूनियन को-ऑपरेटिव क्रेडिट सोसाइटी लिमिटेड, डो-34 नार्थ एवेन्यू दूखानी नगर, बंगलौर-16
4. मैसर्स बी. एण्ड बी. (एजेंट्स) प्राइवेट लिमिटेड, 11/13, प्रथम मेन रोड, जयमहल एक्सटेन्शन, बंगलौर-46
5. मैसर्स इम्प्रेसिव टच वुड फ़ाफ़्टस (प्राइवेट) लिमिटेड, 379/380 दसवां फ़ास, चौथा फ़ेस, पिनन्या इंडस्ट्रियल एरिया बंगलौर-58
6. मैसर्स राक्सो मेटल फ़िनिशर्स (प्राइवेट) लिमिटेड ए 158 (ए) पिनन्या इंडस्ट्रियल स्टेट, बंगलौर-58
7. मैसर्स सेरीकटयूरिस्ट कम फ़ार्मस को-ऑपरेटिव सोसाइटी लिमिटेड, अज़ूर, चामाराजानगर ताल्लुक मैसूर

8. मैसर्स मन्थालक्स इन्जीनियर्स प्राइवेट लिमिटेड 56/18, 7वां माइल होसूर रोड, बंगलौर-58
9. मैसर्स श्री राधा बेन्ना सिक्कूरिटी सर्विसिज नं. 234 द्वितीय मंजिल, सिमपैजा रोड, मलेश्वरम, बंगलौर-3
10. मैसर्स प्रॉव सिक्कूरिटी सर्विस 26/4 इन्डस्ट्रियल सबरब समीप गवर्नमेन्ट सोप फ़ैक्ट्री बंगलौर 55
11. मैसर्स प्रोविस मिड वैस्ट इन्जीनियरिंग कम्पनी लिमिटेड, थापर हाऊस, चतुर्थ मंजिल पी.बा. नं. 2715, 35 प्रथम फ़ास जे.सो. रोड, बंगलौर-27
12. मैसर्स आयरन एण्ड स्टील कंज्यूमर्स को-ऑपरेटिव सोसाइटी लिमिटेड, 6 और 7 इन्डस्ट्रियल टाऊन, राजाजी नगर, बंगलौर-44
13. मैसर्स बी.एम.डी फ़ाउन्डरी मशीनरी लिमिटेड, 57 नंदा दुर्गा रोड बंगलौर-46 और इसका 28-32 सत्या मंगला इन्डस्ट्रियल एरिया, दुमकुर स्थित फ़ैक्ट्री,
14. मैसर्स कैप स्टील लिमिटेड, व्हाइट फ़ैल्ड रोड, महा-देवापुरा पोस्ट, बंगलौर और इसकी कलकत्ता, मद्रास, हुबली तथा सेलम स्थित चार शाखाएं
15. मैसर्स मिनी सरक्कूरटस लिमिटेड, प्लाट नं. 16 जीगानो इन्डस्ट्रियल एरिया, अनेकल ताल्लुक बंगलौर-6 और इसकी श्री रघुबेन्ना काम्पलेक्स नं. 418/1, 10 मेन रोड, चतुर्थ ब्लॉक, जयानगर, बंगलौर-11 स्थित शाखा
16. मैसर्स ताल्लुक एंथीकल्लरल प्रोड्यूस को-ऑपरेटिव मार्केटिंग सोसाइटी लिमिटेड हेगदावेनाकोट और इसकी (1) सारगूर (2) हेंरिंग (3) कोलेगानू स्थित शाखाएं
17. मैसर्स कन्सोलिडेटेड इन्जीनियरिंग कंस्ट्रक्शन कम्पनी नं. 355, 7 फ़ास, 13 मेन, आर एम बी एक्सटेन्शन, बंगलौर-80
18. मैसर्स भविष्य निधि कैंन्टीन, 8 राजा राम मोहन राय रोड, बंगलौर-25
19. मैसर्स इन्फ़ोरमेटिक (इंडिया) प्राइवेट लिमिटेड, 44 गुरु कुरुपा नागधा स्ट्रीट, शोशादरीपुरम, बंगलौर-20
20. मैसर्स इलैक्ट्रॉनिक बॉगिंग एण्ड लेबल कंट्रोलस प्राइवेट लिमिटेड, 312, 5 ब्लॉक कोरामंगला से आउट, बंगलौर-34
21. मैसर्स कर्नाटक गियर्स प्राइवेट लिमिटेड, नं. 14 इन्डस्ट्रियल सबरब द्वितीय स्टेज, दुमकुर रोड, यशवन्त-पुर, बंगलौर-22
22. मैसर्स शोशादरी एण्ड कम्पनी प्राइवेट लिमिटेड, रजिस्टर्ड कार्यालय नं. 20/1, 18 फ़ास रोड, मलेश्वरम वैस्ट बंगलौर-55 और इसका 15/7, 11 मेन रोड, अम

स्टेयर मलेशवरम बंगलौर स्थित प्रशासनिक कार्यालय तथा 95 (1) 7 प्रथम मंजिल वरसिमहारजा रोड, बंगलौर-2 स्थित शो रूम

23. मैसर्स सैन्चुरा पावर कम्पनी प्राइवेट लिमिटेड, नं. 1045 त्रिवेणा रोड, गोकुल फस्ट स्टेज, बंगलौर-54
24. मैसर्स एलएचएम मेहता एण्ड लिमिटेड, नं. 273 मैसूर रोड, बंगलौर-26
25. मैसर्स चित्रा प्रिन्टर्स, 193 लिंक रोड, मलेशवरम, बंगलौर-3

अतः केन्द्रीय सरकार उक्त धारा नियम को धारा 1, की उद्धार 4 द्वारा प्रस्तुत शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबन्ध उक्त स्थापनों का लागू करता है।

[एस-35019(183)/86-एस एस-2]

S.O. 4222.—Whereas it appears to the Central Government that the employers and the majority of employees in relation to the following establishments have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to their respective establishments, namely, —

1. M/s. Paragon Detective and Security Agency Private Limited, No. 116/2, 11th Cross, Malleswaram, Bangalore-3.
2. M/s. Hospet Co-operative City Bank Limited, Y. No. 1583, Hospet-1.
3. M/s. I.T.I. Employees Union Co-operative Credit Society Limited, D-34, North Avenue, Doorvan-inagar Bangalore-16.
4. M/s. B and B (Agents) Private Limited, 11/13, 1st Main Road, Jayamahal Extension Bangalore-46.
5. M/s. Impressive Touchwood Crafts (Private) Limited, 379/380, 10th Cross, 4th Phase Peenya Industrial Area, Bangalore-58.
6. M/s. Roxy Metal Finishers (Private) Limited, A-158 (A) Peenya, Industrial Estate, Bangalore-58.
7. M/s. Sericulturist-Cum-farmers Co-operative Society Limited, Alur, Chamaraajanagar Taluk Mysore.
8. M/s. Manaylux Engineers Private Limited, 56/18, 7th Mile, Hosur Road, Bangalore-68.
9. M/s. Sri Raghavendra Security Services No. 234, 11th Floor Sampige Road, Malleswaram, Bangalore-3.
10. M/s. Probe Security Services, 26/4, Industrial Suburb, Near Government Soap Factory, Bangalore-55.
11. M/s. Greaves Mid-West Engineering Company Limited Thapar House, 4th Floor, P. B. No. 2715, 35, 1st Cross J. C. Road, Bangalore-27.
12. M/s. Iron and Steel Consumers Co-operative Society Limited 6 & 7, Industrial Town, Rajaji Nagar, Bangalore-44.
13. M/s. BMD Foundry Machinery Limited, 57, Nandidurgaroad, Bangalore-46, including its factory at 28—32, Satyamenagala Industrial Area, Tumkur.
14. M/s. Kept Stool Limited, White Field Road, Mahadevapura Post, Bangalore, including four branches at (1) Calcutta (2) Madras (3) Hubli (4) Salem.
15. M/s. Mini Circuits Limited Plot No. 16, Jigani Industrial Area Anekal Taluk Bangalore-6, including its branch at Sri Raghavendra Complex No. 418/1, 10th Main Road, 4th Block Jaya Nagar, Bangalore-11

16. M/s. Taluk Agricultural Produce Co-operative Marketing Society Limited, Haggadadevanakote, including its branches at (1) Sargur (2) Hyrige (3) Kollegala.
17. M/s. Consolidated Engineering Construction Company, No. 355, 7th Cross, 13th Main RMV Extension, Bangalore-80.
18. M/s. Bhavishyanidai Canteen, 8, Rajaram Mohan Roy Road, Bangalore-25.
19. M/s. Informatics (India) Private Limited, 44, Guru Krupa' Nagappa Street, Sheshadripuram Bangalore-20
20. M/s. Electronic Weighing and Level Controls Private Limited, 312 5th Block, Koramangala Lay out Bangalore-34.
21. M/s. Karna aka Gears Private Limited, No. 14, Industrial Suburb Hind Stage, Tumkur Road, Yeshwantha Pur, Bangalore-22.
22. M/s. Seshadri and Company Private Limited Registered Office No. 20/1, 18th Cross Malleswaram, West Bangalore-55, including its Administrative Office at 15/7, XI Main Road UP-stairs Malleswaram, Bangalore and show Room at 95(1)7 1st Floor Narasimharaja Road, Bangalore-2.
23. M/s. Century Power Company Private Limited, No. 1045, Trivani Road, Gokul 1st stage, Bangalore-54.
24. M/s. LFM Mohtaik Limited, No. 273, Mysore, Road, Bangalore-26.
25. M/s. Chitra Printers, 193, Link Road, Malleswaram, Bangalore-3.

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the above mentioned establishments.

[S. 35019(183)/86-SS-II]

का.धा. 4223:—केन्द्रीय सरकार को यह प्रतीत होता है कि निम्नलिखित स्थापन से सम्बन्ध नियोजक और कर्मचारियों को बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारों भविष्य निधि और प्रकाश उपबन्ध अधिनियम, 1952 (1952 का 19) के उपबन्ध सम्बन्धित स्थापन को लागू किये जाने चाहिए :—

1. मैसर्स कोनाक मिनेल्स लिमिटेड, राजगंजपुर, जिला सुन्दरगढ़
2. मैसर्स अतरानी पोटाटी गोवर्धन स्टोरेज एण्ड मार्केटिंग को-ऑपरेटिव सोसाइटी लिमिटेड सत्ताशवा जिला पुरा
3. मैसर्स शिव शंकर फैब्रिकेटर्स, बनारस टेलर्स, बिसरा रोड, राउरकेला
4. मैसर्स तिलमाला राईस मिल्स, पार्क स्ट्रीट, जैईपुर, जिला कोरापुत
5. मैसर्स लक्ष्मीपत सिधानिया पब्लिक स्कूल, जयकेपुर, जिला कोरापुत
6. मैसर्स पी.एन. मंडल पोस्ट आफिस जोड़ा, कोन्हार
7. मैसर्स मयंत्रा एन्टर प्राइजिज, कन्टेक्टर्स कालोनी, पोस्ट आफिस जोड़ा, जिला कोन्हार

अतः केन्द्रिय सरकार उक्त धारा नियम का धारा 1, का उप धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबन्ध उक्त स्थापनाओं को लागू करती है।

[सं० एस-35019(186)/86-एस.एस-2]

S.O. 4223.—Whereas it appears to the Central Government that the employers and the majority of employees in relation to the following establishments have agreed that, the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to their respective establishments, namely.

1. Ms. Konark Minerals Limited, Rajgangpur-17, District Sundergarh.
2. M/s. Uttarayani Potato Grower's Storage and Marketing Co-operative Society Limited, Satasankha, District Puri.
3. M/s. Shiv Shankar Fabricators, Bnars Tailors, Bisra Road, Rourkela.
4. M/s. Tirumalarice Mills, Park Street, Jeypore, District Koraput.
5. M/s. Lakshmipat Sunghania Public School, Jaykaypur, District Koraput.
6. M/s. P. N. Mandal, Post Office Joda, District Keonjhar.
7. M/s. Moitra Enterprises Contractor's Colony, Post Office Joda, District Keonjhar

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the above mentioned establishments.

[No. S-35019(186)/86-SS-II]

नई दिल्ली, 12 नवम्बर, 1986

का. भा. 4224:—कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) की धारा 17 की उपधारा (1क) के अंतर्गत कर्मचारी परिवार पेंशन स्कीम, 1971 से छूट प्राप्ति के लिए मैसर्स नववंश डिरटेक्टरी, नरयानागुडा, आन्ध्र प्रदेश (ए. पी. /1742) ने आवेदन किया है।

चूंकि केन्द्रीय सरकार की राय में केन्द्रीय सरकार परिवार पेंशन स्कीम, 1964 के अंतर्गत परिवार पेंशन के रूप में और कथित स्थापना के कर्मचारियों पर लागू लाभ, कथित अधिनियम और कर्मचारी परिवार पेंशन स्कीम 1971 के अंतर्गत दिए जाने वाले लाभों से कम अनुकूल नहीं है।

अतः, इसलिए कथित अधिनियम की धारा 17 की उपधारा (1क) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और उसके मंचे उल्लिखित शर्तों पर केन्द्रीय सरकार एतद्द्वारा कथित स्थापना की कर्मचारी परिवार पेंशन स्कीम 1971 के सर्वा उपबन्धों के प्रचलन से तीन वर्षों की अवधि के लिए छूट प्रदान करती है।

शर्तें

(1) स्थापना की परिवार पेंशन स्कीम में किसी वस्तु के होते हुए भी यदि किसी सदस्य की मृत्यु पर देय पेंशन की राशि उसके कर्मचारी परिवार पेंशन स्कीम, 1971 का सदस्य होने की स्थिति में देय पेंशन की राशि से कम है तो नियोजन कर्मचारी परिवार पेंशन स्कीम, 1971 के अंतर्गत ग्राह्य परिवार पेंशन मंजूर करेगा।

(2) नियोजन ऐसे खाते बनाएगा, ऐसी विवरणियां प्रस्तुत करेगा, और निरीक्षण के लिए ऐसा सुविधा प्रदान करेगा जो समय समय पर केन्द्रीय सरकार निवेश दे।

(3) कथित स्थापना की परिवार पेंशन स्कीम के प्रशासन में जितने लेखों का तैयार करना, लेखों और विवरणियों का प्रस्तुत करना लेखों

का संतरेण करना भी शामिल है, में सभी निहित खर्चें नियोजना उठाएगा।

(4) नियोजन नियमों की एक प्रति, जिसमें स्थापना के परिवार पेंशन स्कीम के सर्वा संशोधन यदि कोई है, शामिल हूँगे और जो केन्द्रीय सरकार द्वारा अनुमोदित हों, कर्मचारियों के बहुमत द्वारा समर्थित जाने वाली भाषा में उसकी मुख्य बातों की अनुवाद सहित स्थापना के नोटिस बोर्ड पर प्रदर्शित करेगा।

(5) स्थापनाओं की परिवार पेंशन स्कीम के नियमों में कर्मचारियों की हितों को विरुद्ध प्रभाव डालने वाला कोई संशोधन बिना केन्द्रीय सरकार, श्रम मंत्रालय और केन्द्रीय भविष्य निधि प्रायुक्त के अनुमोदन के नहीं किया जाएगा। केन्द्रीय सरकार और केन्द्रीय भविष्य निधि प्रायुक्त उसने अनुमोदन देने से पूर्व कर्मचारियों को अपने विचार व्यक्त करने का उचित अवसर देंगे।

[संख्या एस-35014/9/86-एस एस-2]

ए. के. भट्टारक, अवर सचिव

New Delhi, the 12th November, 1986

S.O. 4224.—Whereas the M/s. Government Distillery, Natayanaguda, Hyderabad (AP/1742) has applied for exemption from Employees' Family Pension Scheme, 1971, under sub-section (1A) of the Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952).

And whereas, in the opinion of the Central Government the benefits in the nature of Family Pension under the Central Government Family Pension Scheme 1964 and applicable to the employees of the said establishment are not less favourable than the benefits provided under the said Act and the Employees' Family Pension Scheme, 1971.

Now, therefore in exercise of the powers conferred by sub-section (1A) of Section 17 of the said Act and subject to the conditions specified hereunder, the Central Government hereby exempts the said establishment from the operation of all provisions of the Employees' Family Pension Scheme, 1971 for a period of three years.

CONDITIONS:

- (1) Notwithstanding anything contained in the Family Pension Scheme of the establishments if the amount of pension payable in respect of any member upon his death is less than the amount of family pension payable if he were a member of the Employees' Family Pension Scheme, 1971 the Employer shall sanction the family pension which is admissible under the Employees' Family Pension Scheme, 1971.
- (2) The employer shall maintain such accounts, submit such returns and provide for such facility for inspection as the Central Government may from time to time direct.
- (3) All expenses involved in the administration of the Family Pension Scheme of the said establishment including maintenance of accounts, submission of accounts and return, transfer of accounts, shall be borne by the employer.
- (4) The employer shall display on the notice board of the establishment a copy of the rules incorporating therein all amendments if any of the Family Pension Scheme of the said establishment as approved by the Central Government alongwith a translation of the salient features thereof language understood by the majority of the employees.
- (5) No amendment of the rules of the Family Pension Scheme of the establishments adversely affecting the interests of the employees shall be made without the prior approval of the Central Government in the Ministry of Labour and the Central Provi-

dent Fund Commissioner. The Central Government and the Central Provident Fund Commissioner will, before giving therein approval, give a reasonable opportunity to the employees to explain therein point of view.

[No. S-35012/9/86-SS-II]

A. K. BHATTARAI, Under Secy.

नई दिल्ली, 8 दिसम्बर, 1986

का.मा. 4225.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुबन्धन में, केन्द्रिय सरकार में. रासी सीमेंट लिमिटेड, पी. विष्णुपुरम (वाडापल्ली) 508355, जिता नालगोंडा (आन्ध्र प्रदेश) के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद (आन्ध्र प्रदेश) के पंचाट को प्रकाशित करती है, जो केन्द्रिय सरकार को 27-11-1986 को प्राप्त हुआ था।

New Delhi, the 8th December, 1986

S.O. 4225.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Hyderabad (AP), as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Raasi Cement Ltd., P. O. Vishnupuram (Wadapally) 508355, Distt. Nalgonda (A.P.) and their workmen, which was received by the Central Government on the 27th November, 1986.

**BEFORE THE INDUSTRIAL TRIBUNAL (CENTRAL)
AT HYDERABAD**

Dated the 4th November, 1986

Industrial Dispute No. 75 of 1984

BETWEEN

The Workmen of Raasi Cement Limited, Vishnupuram, Nalgonda District (Andhra Pradesh).

AND

The Management of M/s. Raasi Cement Limited, Vishnupuram, Nalgonda District (Andhra Pradesh).

APPEARANCES :

S/Sri G. Bikshapathy and G. Vidyasagar, Advocates for the Workmen.

S/Sri A. Krishna Murthy and P. Nageswara Sree, representatives for the Management.

AWARD

By Order No. L-29012/22/84-D.II(B), dated 3rd September, 1984, the Government of India in Ministry of Labour and Rehabilitation, referred under Sections 7A and Clause (d) of sub Section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), an industrial dispute existing between the employers in relation to the management of M/s. Raasi Cement Limited, Vishnupuram and their workmen in respect of the matters specified in its schedule which is as follows :—

"Whether the management of Messrs. Raasi Cement Ltd. P.O. Vishnupuram (Wadapally)-508355, District Nalgonda (A.P.) justified in dismissing Shri K. Ramulu, Heavy Equipment Operator, from service with effect from 17-1-84 ? If not, to what relief is the workman concerned entitled ?"

2. The above order of reference was received in this Tribunal on 15-9-1984 and it was registered as Industrial Dispute No. 75 of 1984. Notices were issued to the workman for filing his Claims Statement on or before 28-11-84,

while serving a copy of it on the Management. The Workman filed his Claims Statement and the Vakalat of his Advocate, Sri G. Bikshapathy on 28-11-1984. The dispute was posted on 2-1-1985 for the Counter of the Management. The Management filed its counter on 16-1-85. The dispute was posted for enquiry on 18-2-1985.

3. The dispute underwent several adjournments at the request of the parties. On 29-11-1985 the Counsel for the parties addressed their arguments on preliminary point, and Exhibits M1 to M15 were marked by consent. By Order dated 2-12-1985, this Tribunal held that the domestic enquiry conducted by the management was fair and proper and the dispute was posted on 3-1-1986 for arguments on the schedule annexed to the above order of reference.

4. From 3-1-1986, the dispute was adjourned to various dates at the request of parties; and on 4-11-1986, the parties concluded a compromise between themselves and filed their compromise petition dated 30-10-1986 with a request to record it as a part of the annexure to this Award.

5. I have found the compromise entered into between them is fair and proper and it meets all the points contained in the schedule annexed to the above order of reference of this dispute. Hence an Award is accordingly passed in terms of the compromise filed by the contending parties. Therefore, I order that a copy of the compromise dated 30-10-1986 shall be enclosed to this award.

Given under my hand and the seal of this Tribunal, this the 4th day of November, 1986.

INDUSTRIAL TRIBUNAL

Appendix of Evidence

Witnesses Examined:

NIL

Documents marked for Workman:

NIL

Documents marked for Management:

- Ex. M1 Transfer Orders of workman from mines to factory dt. 7-2-83.
- Ex. M2 Charge Sheet No. RCL/A&LD/83, dt. 3-9-83 for causing damage to the Fuel FMlter.
- Ex. M3 Charge Sheet No. RCL/A&LD/83, dt. 5-9-83 for refusing to receive the earlier charge sheet.
- Ex. M4 Explanation of the Workman to the Charge Sheet dt. 3-9-83.
- Ex. M5 Explanation of the Workman to the Charge Sheet dt. 5-9-83.
- Ex. M6 Proceedings of the enquiry held on 24-9-83.
- Ex. M7 Enquiry Officers' report.
- Ex. M8 Final Show Cause Notice on the Proposed punishment of dismissal letter No. RCL/A&LD/83, dt. 30-11-83.
- Ex. M9 Explanation of the Workman to the Final Notice dt. NIL.
- Ex. M10 Order of dismissal letter No. RCL/A&LD/84, dt. 17-1-84.
- Ex. M11 Statement of the Workman about the incident dt. 3-9-83.
- Ex. M12 Charge Sheet dt. 131-81 for causing to the damage of the dumper.
- Ex. M13 Asstt. Engineer's report on the value of damage caused by the Workman to the Dumper on 13-1-81.
- Ex. M14 Punishment of suspension order dt. 5-2-81.
- Ex. M15 Letter to ALC(C) dt. 28-4-84.

Dt : 20-11-86.

J. VENUGOPALA RAO, Presiding Officer
[No. L-29012/22/84-D.II(B)]

V. K. SHARMA, Desk Officer

FORM H

(SEE RULE 58)

Memorandum of Settlement Entered into Between the Management of M/s. Raasi Cement Limited and Mr. K. Ramulu Under Section 18(1) of Industrial Dispute Act.

NAME OF PARTIES :

- (1) Representing employer by its Secretary—Sri N. Pattabhi Raman.
- (2) Representing workmen K. Ramulu—Sri K. Ramulu

SHORT RECITAL OF THE CASE

(1) The workman Mr. K. Ramulu was an Ex-employee of M/s. Raasi Cement Limited. The Workman was dismissed from service for certain proved misconducts after issuing a charge sheet and after holding a domestic enquiry vide Order Dt. 17-1-1984.

(2) The workman thereafter raised an Industrial Dispute and the same was referred by the Central Government to the Hon'ble Industrial Tribunal, Hyderabad. The Hon'ble Industrial Tribunal numbered the same as No. 75/1984 and initiated the proceedings. The Management contested the matter or and the proceedings in I.D. 75/84 are pending before the Hon'ble Industrial Tribunal.

(3) Pending the proceeding before the Hon'ble Industrial Tribunal, the workman approached the Management and desired to settle the issue involved in industrial Dispute 75/84 out of court and enter into an amicable settlement as he is gainfully employed. The issue was discussed between the parties on various days and it is mutually agreed to between the parties finally as under :—

- (a) The workman Mr. K. Ramulu agreed to withdraw his claim before the Hon'ble Industrial Tribunal i.e. I.D. No. 75/84 with a request to dismiss his claim statement as withdrawn.
- (b) The workman Mr. K. Ramulu further agreed not to question the order dismissal Dt. 17-1-1984 against him in any court of Law and not to raise any claim, demand or dispute against the Management in pursuance of the order of dismissal Dt. 17-1-1984 passed against him.
- (c) The Management agreed to pay a sum of Rs. 15,000 (Rupees Fifteen thousand only) as Ex-gratia in full and final settlement of all his claim and dues if any, as a special case without making it a precedent. The workman acknowledges the receipt of Rs. 15,000 vide Cheque No. 555051 & 555052 Dt. 30-10-1986 drawn on Syndicate Bank, Hyderabad for a sum of Rs. 15,000 in full and final settlement of all his claims and dues etc. The workman has also passed a separate receipt for the same.
- (d) The workman specifically agrees not to raise any demand or dispute against the Management including the claim for any reinstatement or back wages and all the claims, demands or disputes shall be deemed to have been fully settled and/or withdrawn.
- (e) The workman agrees that he has no claim or demand or dispute against the Management. He further agrees to file a copy of the settlement before the Hon'ble Industrial Tribunal of Hyderabad in I.D. 75/84 to record the settlement and to dismiss his claim statement as withdrawn.
- (f) Both the parties hereby agree to jointly forward a copy of the Settlement to the Central Government, the Chief Labour Commissioner (Central), New Delhi, Regional Labour Commissioner and to the Assistant Labour Commissioner, Hyderabad.
- (g) In witness whereof the above named parties have signed the settlement on this day 30th day of October 1986 at Hyderabad.

For Management

Sd/- Illegible

For Workman

Sd/- Illegible

Witnesses :

1. Sd/- Illegible
2. Sd/- Illegible

Dated : 4-11-1986.

Sri Nageswara Sri filed this for being recorded. It is represented that himself (Nageswara Sree) and Sri Viswanadham (Junior of Sri G. Bikshapathi) signed the settlement as witnesses. Hence recorded.

Sd/- (Illegible)

Chairman, Industrial Tribunal

का.आ. 4226.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वकेडला ओपन कास्ट प्रोजेक्ट मैसर्स सी.सी.एल. के प्रबंध-तंत्र से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-11-86 को प्राप्त हुआ था।

S.O. 4226.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Dhanbad, as shown in the Annexure, in the industrial dispute between the employees in relation to the management of Kedla Open Cast Project of Central Coalfields Ltd. and their workmen, which was received by the Central Government on the 25th November, 1986.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

Reference No. 15 of 1982

In the matter of industrial dispute under Section 10(1)(d) of the I.D. Act, 1947.

PARTIES :

Employers in relation to the management of Kedla Open Cast Project of Central Coalfields Limited and their workmen.

APPEARANCES :

On behalf of the workmen.—Shri J. P. Singh, Advocate.
On behalf of the employers.—Shri R. S. Murthy, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 17th November, 1986

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012 (18)/81-IV(B) dated the 16th February, 1982.

SCHEDULE

"Whether the action of the management in dismissing Shri Garib Ram, Sahdeo Mahto, Sodhan Saw and Charka w.e.f. 28-7-81 on the alleged charge of

assault and intention to steal on 4-5-79 when on the same charges they have been acquitted by the Court of Judicial Magistrate without any shadow of doubt is justified and reasonable? If not, to what relief are the workmen entitled?"

The case of the workmen is that the concerned workman S/Shri Sudhan Sao and Charka had been working as underground trammer of Kedla colliery as permanent workmen. The other two concerned workmen S/Shri Sahdeo Mahato and Garib Ram had been working as dumper operator and Guard respectively in Kedla Open Cast Project as permanent workmen since long. They were active members of Bihar Colliery Kamgar Union with whom the local management became annoyed. The management issued false and frivolous chargesheet against them and subsequently dismissed them without conducting proper enquiry. The alleged charges in the chargesheet was not a misconduct under the provision of the Standing Orders. The concerned workman Charka and Sudhan Sao were chargesheeted alleging of their having, attempted theft of cable wire on 4-4-79 at 11.30 P.M. They were further alleged to have assaulted Koredinbin on 5-4-79 at 8.30 A.M. along with Sahadeo Mahato and Garib Ram. The chargesheets had been issued against the four concerned workmen on the basis of complaint made by Koredinbin. A criminal case was also lodged against them on the information lodged by Koredinbin at the instance of the management. On the information lodged by Koredinbin a G. R. Case No. 606/79 was instituted. All the concerned workmen were acquitted of the charges by the Court. The charges framed in the departmental enquiry were also the same in respect of which an information was lodged before the Police and the concerned workmen were acquitted in the G.R. Case No. 606/79. The concerned workmen, however, replied to the chargesheets denying the charges. The concerned workmen Sahdan Sao and Charka were underground trammer and were on duty on 4-4-79 in the 3rd shift i.e. from 11.00 P.M. of 4-4-79 to 7 A.M. of 5-4-79. Sahadeo Mahato Dumper helper was on duty on 5-4-79 from 4 A.M. to 12 A.M. Garib Ram was on duty between 4 to 5th of April, 1979 from 12 midnight to 8 A.M. The management being not satisfied with the explanation of the concerned workmen decided to conduct domestic enquiry against them. The concerned workmen requested the management not to hold the domestic enquiry till the finalisation of the criminal case which had been started against them at the instance of the management for the same allegation. The management however proceeded with the domestic enquiry. The concerned workmen were not afforded full opportunity to adduce their defence witness nor they were allowed to cross-examine the management's witnesses. The statement of Koredinbin was not recorded in presence of the concerned workmen. The copy of the complaint had not been supplied to the concerned workmen. The concerned workmen were dismissed from service although they had been honourably acquitted in the criminal case. The charges against the concerned workmen had not been established in the domestic enquiry. The workmen represented before the management for their reinstatement with full back wages but with no effect. Thereafter the union took up their case and a conciliation proceedings was started before the AIC(C). After the conciliation failed, the Govt. of India referred the present dispute for adjudication to this Tribunal. It was submitted that the action of the management in dismissing the concerned workmen after their acquittal was unreasonable and mala fide and an act of victimisation. In view of the above pleadings it is proved that the management be directed to reinstate the concerned workmen with all back wages.

The case of the management is that Kedla Jharkhand group of collieries formerly belonged to Bokaro Ramgarhi Limited owned by the late Raj of Ramgarhi. The collieries were placed under a lease in December, 1972. These coal mines were declared as coal mines and the management vested in the Central Govt. and thereafter in the N.C.D.C. Ltd. which was appointed as the Custodian of these mines. By an order of the Supreme Court the Receiver was directed to hand over the collieries to NCDC Ltd. along with entire plant and machineries etc. When NCDC started taking over the mines thousands of people started their claim for employment in the mines and as such NCDC

had to evolve a procedure for screening the persons for employment in the mine. In 1973 screening was completed and the persons were offered employment. Subsequently it was found that some anti social elements got their employment by fraudulent means as no character verification had been made at the time of their appointment after screening. There was also problem of law and order. The concerned workmen Garib Ram was a Cat. I Mazdoor who joined the services on Kedla Group of Mines in 1973. Shri Sahadeo Sao was employed as a piece rated worker in Kedla underground Project. The other two concerned workmen Shri Sahadeo Mahato and Charka alias Bideshi were employed as a Cat. II Mazdoor in Kedla Open Cast Project and as piece rated worker in Kedla underground project respectively. The concerned workmen Garib Ram and Sahadeo Mahato were chargesheeted by the Colliery Manager in April, 1979 for the assault of Security Guard Koredinbin. The other two concerned workmen Sahdan and Charka were chargesheeted for stealing the drill cable and assaulting Koredinbin. All the four concerned workmen replied to the charges. As their explanation was found to be unsatisfactory the management decided to hold domestic enquiry into the charges and Shri R. N. Chatterjee, Administrative Officer Kedla was appointed as an Enquiry Officer. The chargesheeted employees fully participated in the enquiry proceeding along with their co-workers and they cross-examined the management's witnesses. The concerned workmen also gave their statement before the Enquiry Officer. After completing the enquiry the enquiry officer submitted his enquiry report holding that the charge of theft alleged to have been committed in the night of 4-4-79 had not been established. However he held that all the concerned workmen took part in assaulting Koredinbin on the morning of 5-4-79. The higher authority after considering the report of the enquiry officer and the enquiry proceeding agreed with the findings of the enquiry officer and dismissed all the four concerned workmen from service with effect from 28-7-81.

Koredinbin had also lodged an information with Mandu Police and the police had submitted chargesheet against the concerned workmen. The management had no idea of the said criminal case and it was not brought to the notice of the management during the course of domestic enquiry. A domestic enquiry and a criminal case on the same incident are two separate and independent matters. The same act may or may not be a crime but it may amount to a misconduct under the Standing Orders of the Company. If it is a case of misconduct pure and simple the management can take disciplinary action after holding an enquiry. If the said incidents is an offence under the criminal law. It is for the state to take up the matter in which the management have no hand. Merely because there has been an acquittal in the criminal case relating to the incident it cannot in law exonerate the workmen from the charges of misconduct which can be gone into in a disciplinary proceeding. On the above plea it is submitted that the concerned workmen have been rightly dismissed from service.

Earlier the management had raised a preliminary objection regarding the maintainability of the reference on the ground that the wording of the reference is such that it has to be thrown out purely on the question of law. By the order dated 7-10-82 the then Presiding Officer of the Tribunal passed an order against which the management went in C.W.J.C. No. 1199 of 1982 (R). His lordship after discussing the matter in great details dismissed the petition and directed the Industrial Tribunal to hear the case on merit and dispose of the reference. His Lordship further held in para-7 of the judgement.

"The Tribunal also held that the fact of acquittal by the Criminal Court could not preclude the management from considering the evidence before the domestic enquiry.

The said view of the Tribunal finds support from a decision of this Court in the case of employers in relation to Mudidih Colliery of M/s. Ramtara Coal Company Limited V. Presiding Officer, Central Govt. Industrial Tribunal and other (1971 P.L.J.R.

103), that the departmental enquiry is no bar on the same facts on which the order of acquittal has been recorded by a criminal court."

His Lordship further held :

"In the facts and circumstances of the case it is crystal clear that the workmen were complaining about the illegality of the termination of their services and the same had been referred to the Tribunal. Therefore, it is not possible to accept this contention that the reference is incompetent. The language or the format in which the demand is couched is hardly decisive of the matter. The substances of the matter is as to what is the grievance of the workmen complained by them or espoused by the Union and what the Industrial Tribunal was called upon to adjudicate in 1981. Viewed from this angle, the demand referred to the Industrial Tribunal for adjudication is the same which was espoused and raised by the union. In case of dismissal the main question to be decided is as to whether the conduct of the management in dismissing the workmen is justified. Therefore the basic question for consideration was whether the dismissal of the concerned workmen was justified and reasonable."

In view of his Lordship's observation made in C.W.J.C. 1199 of 1982 it will appear that the acquittal of the concerned workmen in the criminal case which was lodged on the allegation which is also the allegation in the chargesheet in the domestic enquiry cannot stand as a bar to the holding of the domestic enquiry against the concerned workman and now the point which actually has to be determined in this case is whether the dismissal of the concerned workman was justified and reasonable on the charges levelled against them.

As there was a direction of his Lordship to dispose of this case at the earliest both the parties agreed to the hearing of the case on merit and they made their submission on the basis of the materials which formed part of the domestic proceeding.

Ext. M-1 is the chargesheet dated 10-4-79 against Garib Ram Ext. M-2 is the chargesheet against Sahadeo Mahato Ext. M-3 is the chargesheet against Sadhan Sao and Ext. M-4 is the chargesheet against Charka alias Bideshi. Ext. M-5, Ext. M-6, M-7 and M-8 are the replies to the chargesheet by Garib Ram, Sahadeo Mahato, Sadhan Sao and Charka respectively. Ext. M-9 to M-11 are notices of enquiry sent to the concerned workman. Ext. M-12, to M-14 are also notices sent to the concerned workmen intimating them the date of enquiry. Ext. M-15 to M-18 are the applications which show that the concerned workmen appointed Shri M. M. Roy, Overman, Kedla to work as their co-worker in the enquiry proceeding. Ext. M-20 to M-25 are office orders to show that the notices were issued to the concerned workmen regarding the date of enquiry by the enquiry officer. There is no dispute about the fact that the concerned workmen had appeared before the enquiry officer along with their co-worker and had participated in the enquiry. As such I do not feel the necessity of discussing in details the notices which were sent to the concerned workmen from time to time intimating them of the date fixed in the enquiry proceeding. I would hold that the concerned workmen had received notices and have participated in the enquiry proceeding along with their co-worker.

Ext. M-38 is the enquiry proceeding. It will appear that all the three management's witnesses were examined in presence of the concerned workmen and their co-worker and that the witnesses had been cross-examined by them. The concerned workman and their co-worker M. M. Roy have put their signature L.T.J. on each page of the proceeding denoting that the entire proceeding was gone into in their presence. The concerned workmen also gave their statement which was recorded by the Enquiry Officer. Thus it appears that the concerned workman had been given full opportunity to defend themselves and they had also given their own statement. They did not adduced any defence witness and as such no defence witness examined before the Enquiry Officer.

GI/86-6

Ext. M-39 is the report of the enquiry Officer. It will appear from his report at the top of page-4 that he has not accepted the case of theft or attempt to theft by two concerned workmen and as such he did not find Sadhan and Charka guilty of the charge of theft in the night of 4-4-79. However it will appear from the note Ext. M-43 that the Project Officer/Agent Kedla Project on consideration held that the charge of theft also had been proved against Sadhan Sao and Charka. On perusal of the said notesheet it appears that the Project Officer has based his finding on conjectures and surmises which is not supported by any oral or documentary evidence. The enquiry officer in his finding on the charge of theft has given good grounds for not accepting the same and I agree with his finding. I hold therefore that the charge of theft against Sadhan Sao and Charka has not been established.

The other charge is about the assault on Karundenbin on 5-4-79 at 8 A.M. It is said that the assault took place near the Tea Shop of Gauri Sao. Three witnesses have been examined on this point by the management. There are the complaint Karundenbin and Shri A. Bhagat, Security Guard and Shri Rammurat Singh, Head Security Guard. It is stated that when in the morning of 5-4-79 at about 8 A.M. Karundenbin was going to report the matter of theft in the night to the higher authority, he saw Sadhan Sao and Charka in the Tea Stall of Gauri Sao and those two persons along with Sahadeo Mahato and Garib Ram assaulted Karundenbin. It is further stated in the complaint of Karundenbin that in the meantime Gauri Sao, Arjun Bhagat and Bhoodeo Singh arrived there and stopped the quarrel. Karundenbin has no doubt stated that the four concerned workmen had assaulted him in the morning of 5-4-79 at about 8.30 A.M. and he has also been supported in this connection by evidence of Arjun Bhagat and Ram Murat Singh. Arjun Bhagat and Ram Murat Singh are both the security guards belonging to the fraternity of Karundenbin. The two persons namely Bhoodeo Singh, Gauri Sao, Panwala were not examined before the Enquiry Officer. The Doctor was also not examined to show that Karundenbin had received injuries on the alleged date of assault. Thus there is lack of evidence of independent witness but there is also no reason to disbelieve the two management's witnesses examined on behalf of the management in support of the evidence of Karundenbin. Only because the three management witnesses were security guard cannot be reason to disbelieve them when there does not appear to be any ill will between them and the concerned workmen from before the incident. I agree therefore with the finding of the Enquiry Officer that the four concerned workmen had assaulted Karundenbin.

The management have passed an order dismissing all the four concerned workmen for the simple assault on Karundenbin. In this view of the matter I hold that the punishment of dismissal of the four concerned workmen from service is too severe. The concerned workmen are facing the domestic enquiry since about 6 years which itself must have been a great agony to them and was a sufficient punishment for the assault alleged against them. In my opinion ends of justice will be met by setting aside the order of dismissal and reinstating them in their original job. However, they will not get any remuneration for the period of their idleness which will be sufficient punishment to them for the act committed by them. However they will get the continuity of service. Award is passed accordingly.

Dt : 17-11-86

[No. L-24012/18/81-D. IV(B)]

I. N. SINHA, Presiding Officer

नई दिल्ली, 9 दिसम्बर, 1986

का.आ. 4227 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) के धारा 17 के अनुसरण में, केन्द्र सरकार व पारेलिया मोर्स पो मैजर्स इस्टर्न कोनफेल्ड लि., डाक. बाहुला जिला, बर्दवान के प्रबन्धतंत्र से सम्बन्धित नियोक्तों और उनके

कर्मकारों के बीच अनुबन्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-11-86 को प्राप्त हुआ था।

New Delhi, the 9th December, 1986

S.O. 4227.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Parasea O.C.P. of M/s. Eastern Coalfields Limited and their workmen, which was received by the Central Government on the 20th November, 1986.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CALCUTTA

Reference No. 53 of 1980

PARTIES :

Employers in relation to the management of Parasea O.C.P. of Eastern Coalfields Limited, P.O. Bahula Burdwan).

AND

Their Workmen.

PRESENT :

Mr. Justice Anitabha Dutta Presiding Officer

APPEARANCES :

On behalf of Employers : Mr. T. K. Basu, Counsel with Mr. M. N. Kar, Advocate.

On behalf of Workmen : Mr. D. L. Sengupta, Senior Advocate with Mr. M. S. Dutta, Advocate.

DATE : West Bengal.

INDUSTRY : Coal.

AWARD

The Government of India in the Ministry of Labour by Order No. L-19012(10)/80-D. IV(B) dated 7th July, 1980 referred the industrial dispute between the management of Parasea O.C.P. of Eastern Coalfield Ltd. and their workmen in respect of the following matters specified in the schedule to the order of reference :

"Whether the action of the management of Parasea O.C.P. of Eastern Coalfields Limited, P.O. Bahula, District Burdwan in dismissing S/Shri Majeed Ahmed, Shovel Operator and M. N. Khan, Dumper Operator, from service with effect from 26th April, 1978 was justified? If not, to what relief are the concerned workmen entitled?"

2. This Tribunal presided over by my learned predecessor in office Shri M. P. Singh after taking evidence and hearing both parties passed an Award on 16-7-1982 setting aside the order of dismissal dated 26th April, 1978 on the ground that the project officer who passed the order of dismissal was not competent to dismiss the concerned workmen. My learned predecessor in office did not express any opinion on the fourth submission made by Mr. D. L. Sengupta, the learned advocate for the workmen that the witnesses for the management have made several contradictions in their statements before the enquiry officer and they should be held to be unreliable.

3. The management challenged the Award in the constitutional writ jurisdiction (original side) of the High Court at Calcutta. His Lordship Shri Bimal Chandra Basak, J. by order dated 8-9-1986 in matter No. 1340 of 1983 set aside and quashed the Award holding that the order of dismissal was validly passed by competent authority and remanded the reference. The High Court observed as follows : "Let it be made clear that ultimately on this point, the fourth submission, the Tribunal holds against the private respondents that will not prevent the private res-

pondents from challenging the said Award not only on the fourth ground but also on any other ground which has been decided against the private respondent who had not had any opportunity to challenge such findings against him".

4. I have heard the learned advocates appearing for the parties on the fourth submission which had been made on behalf of the workmen concerned when my learned predecessor in office heard the reference and on which no opinion was expressed by him.

5. In this case the management issued charge sheets against Shri Majeed Ahmed and Shri M. N. Khan, the two concerned workmen in the form of show cause notice dated 2-1-1978 (Ext W-1 and Ext. W-2) to them. The charge of misconduct against Shri Majeed Ahmed was that on 1-1-1978 at about 7 p.m. he and Shri M. N. Khan in collusion with some employees severely assaulted Shri A. P. Joshi, Junior Executive Trainee (Excavation) in front of the workshop in Parasea O.C.P. when Shri Majeed Ahmed was pulled up by Shri Joshi for staying away from duty after 6 p.m. on that day. Shri Majeed Ahmed had been verbally told and warned for similar negligence of duty which negligence of duty which was hampering production also. The alleged misconduct was said to be under paragraph 17(i)(r) of the Model Standing Orders for Coal Mines Industry.

6. The charge of misconduct against Shri M. N. Khan was that on 1-1-1978 at about 7 p.m. he and Shri M. Ahmed in collusion with some employees severely assaulted Shri A. P. Joshi, Junior Executive Trainee (Excavation) in front of the workshop in Parasea O.C.P. when Shri Majeed Ahmed was pulled up by Shri Joshi for staying from his duty after 6 p.m. on that day.

7. It may be mentioned that three other workmen were also charge-sheeted for the alleged incident and there was the same managerial enquiry against all the 5 workmen. Both the parties adduced oral and documentary evidence in the domestic enquiry. The enquiry officer found that the charge was not established against Shri Aftab Alam, Shri Ayub Khan and Shri Naushad Ahmed, the three other workmen. He found Shri Majeed Ahmed and Shri M. N. Khan guilty of charge of assaulting Shri A. P. Joshi.

My learned predecessor in office as found the domestic enquiry to be valid and proper and this finding has not been interfered with by the High Court.

8. It has been submitted by Mr. Sengupta on behalf of the workmen that the Tribunal after remand has to consider the matter under section 11 A. of the Industrial Disputes Act, 1947 in the light of the decision of the Supreme Court in Workmen of Firestone and Rubber Co. Vs. Management, 1973 1 LLJ 178. In the reported case the Court has summed up the powers of the Tribunals after introduction of the said section. "Therefore, it will be seen that both in respect of cases where a domestic enquiry had been held as also in cases where the Tribunal considers the matter on the evidence adduced before it for the first time, the satisfaction under S. 11A about the guilt or otherwise of the workmen concerned, is that of the Tribunal. It has to consider the evidence and in cases where an enquiry has been held by an employer and a finding of misconduct arrived at, the Tribunal can now differ from that finding in a proper case and hold that no misconduct is proved" (paragraph 37 at page 296). The Court also held that a Tribunal may hold that the punishment is not justified because misconduct alleged and found proved is such that it does not warrant dismissal or discharge. To come to conclusion either way, the Tribunal will have to reappraise the evidence for itself. Ultimately it may hold that the misconduct itself is not proved or that the misconduct proved does not warrant punishment of dismissal or discharge. It can under such circumstances award to the workman any lesser punishment instead.

9. The aforesaid submission of Mr. Sengupta has not been opposed by Mr. T. K. Basu, the learned advocate appearing for the management. Having regard to the law laid down by the Supreme Court in the reported decision mentioned above and the order of limited remand passed by the

High Court I shall take up for this decision the fourth submission or ground on which the order of dismissal passed by the management against the two workmen concerned was challenged on their behalf at the earlier hearing of the reference. The details of the alleged inconsistencies and contradictions in the evidence adduced by the management before the enquiry officer have been set forth in paragraph 10 of the written statement filed on behalf of the workmen on 20-8-1980. It has been pointed out in the aforesaid paragraph of the written statement that there is nothing in the evidence of MW-1, A. P. Joshi as to the reasons for the alleged assault or that it was due to alleged complaint against Shri Majeed. It is also stated that MW-2, B. N. Addy has been disbelieved by the enquiry officer and so there is none to corroborate Mr. Joshi about the alleged assault. It is pleaded that on the incident of assault three other witnesses on the side of the management MW-4, S. P. Ghosh, MW-5, B. K. Acharjee and MW-6, B. N. Koley contradicted each other. MW-4 did not mention MW-5 or MW-6 was present at the time of the alleged assault. MW-5 has deposed that he heard MW-4 shouting but MW-4 does not state that he shouted. MW-4 did not mention that MW-6, B. N. Koley was present at that spot nor did he say about assaulting by Shri Majeed and Shri M. N. Khan. MW-6 has deposed to the effect that he rushed to the spot and found Shri Majeed and M. N. Khan assaulting Shri Joshi and tried to separate them and in the meantime Shri Joshi fell down on the ground. Shri Koley has said that he lifted Shri Joshi up from the ground. Enquiry officer has based his finding on the charge of assault entirely on the corroboration by MW-6 Shri Koley observing that he is an eye witness of the assault on Shri Joshi by the two workmen concerned, without applying his mind to the fact that none of the witnesses who were said to have arrived at the spot ever mentioned the presence of MW-6 at the time of the alleged incident. It is also pleaded that the evidence of the company's medical officer Shri K. Mondal (MW-8) has not been considered by the enquiry officer in all its implications. According to the evidence of Shri Joshi, he went to Shri Mondal at about 10 pm. i.e., three hours after the alleged incident. According to Dr. Mondal although the cut injuries were not bleeding, the wounds were fresh ones and the nature of injury was simple. If read with the evidence of MW-5, B. K. Acharjee that he did not find any external injury on the person of Shri Joshi, the whole story appears to be unbelievable.

10. The aforesaid pleas taken in paragraph 10 of the written statement of the workmen have been reiterated by Mr. Sengupta at the time of hearing of the reference after remand. Mr. Basu appearing for the management in order to assail the contentions raised on behalf of the workmen has submitted that the alleged omissions or inconsistencies are minor in nature and that there are contemporaneous complaint and medical evidence besides the oral evidence of the witnesses who came to the spot at or about the time of the occurrence, furnishing satisfactory proof of the charge of assault and misconduct levelled against the workmen concerned. He has argued that the standard of proof in domestic enquiry is not proof beyond reasonable doubt as in criminal case but proof which is enough to satisfy a reasonable and prudent man that the charge has been established.

11. Mr. Sengupta in reply has referred to the decision of the Supreme Court in *Taxmi Devi Sugar Mills Ltd. Vs. Nandkishore Singh*, 1956 II L.J. 439 in which it has been held that the Tribunal cannot travel beyond specific charge and allegation and that action cannot be justified on grounds other than those contained in the charge sheet. He has referred to certain other decisions on well-known propositions of law and on points which are not open for decision in view of the remand order.

12. Let me now discuss the evidence adduced by the parties in the domestic enquiry for arriving at my own conclusion. MW-1, A. P. Joshi has narrated the occurrence in his evidence. He has deposed that on the date of occurrence i.e., 1-1-1978 his duty as Junior Executive Trainee (Excavation) was in the second shift from 2 pm. to 10 pm. He was shift incharge for looking after the production. The concerned workman Majeed Ahmed (hereinafter called Majeed) was operator of shovel excavator No. 167. At

about 6-30 pm, when MW-1 with Shri B. N. Addy executive engineer went to the end of the quarry he did not find Majeed operating that shovel. Another person Aftab Khan was operating it. MW-1 stopped the operation by an unauthorized person. The other concerned workman M. N. Khan (hereinafter called Khan) Dumper Operator was asked to take his dumper to another shovel. After some time Majeed came back and operated the shovel. At 7 pm, which was tiffin time, when MW-1 came to the workshop in a dumper he was dragged down from the dumper by Majeed and Khan and immediately they started assaulting him with fists and blows. They knocked him down on the ground and started beating him on the stomach and chest with booted legs. Shri B. K. Acharjee, auto electrician and S. P. Ghosh, fitter came to his rescue and saved him. Thereafter MW-1 boarded another dumper and went to his colony. He reported the incident to the management in writing and also to Ondal P.S. on the same date. It has been elicited in his cross-examination that there is a motive behind the assault. He had complained against Majeed for dereliction of duty on previous occasions and on the date of the incident also (vide answer to question No. 4 of the enquiry officer). So the contention on behalf of the workmen that there is no evidence of motive for the assault is not correct. The oral evidence of MW-1 is consistent in material parts with the written complaint made by him on the same day before the Project Officer (vide Ext. M-11). MW-1 both in his written complaint and his evidence has stated that B. K. Acharjee, auto electrician (MW-5) and S. P. Ghosh (MW-4) who were present in the workshop came to rescue him. He did not say about arrival of any other witness in the written complaint or his evidence at or about the time of the assault. In his complaint he mentioned a second phase of the incident when Khan boarded a nearby dumper and attempted to crush him below the tyres of the dumper. In his evidence MW-1 did not refer to the second phase. Such omission does not in my opinion affect his veracity as to the main incident. MW-4, S. P. Ghosh and MW-5, B. K. Acharjee have spoken to those parts of the incident which they had witnessed. MW-4 who was under the workshop shed saw MW-1 arrive at the workshop in a dumper at about 7 pm, on the date of occurrence and Majeed and Khan proceeding hurriedly towards MW-1. Immediately thereafter the attention of MW-4 was drawn to the mechanical defect in another dumper. At that time he heard a hue and cry and saw a tussle, 10 to 15 feet away from the place where he was standing. He ran to the spot and found that Majeed was holding MW-1 in angry and agitated mood and Khan holding the left part of MW-1's body. MW-4 intervened and while he was trying to rescue him a thrust came and MW-1 fell down on the ground. MW-4 attempted to raise him from the ground. In cross-examination on behalf of the workmen MW-4 has said that he saw Majeed and Khan lifting their hands but could not see the actual assault, meaning the beating. There was no power supply at the workshop and so there was insufficient light. MW-5, B. K. Acharjee has stated that when he went near a dumper for its repair in front of the workshop he heard a hue and cry about 50 or 60 feet away from his place of working. He heard MW-4 shouting. He (MW-5) went to the spot and found MW-4 lifting MW-1 from the ground. Thereafter MW-1 left the place in dumper. MW-5 found Majeed and Khan in an agitated and angry mood. In cross-examination MW-5 has said that he did not see actual assault and that he could not find any external injury on the person of MW-1. But he came to the spot when the phase of assault was over. The fact that he had not seen any external injury of MW-1 is explained by the evidence of both sides that there was no power supply in the workshop. The time of the alleged occurrence was about 7 pm. on the 1st January. It is probable that small external injuries would not be visible without good light. MW-8, Dr. K. Mondal who was medical officer of Parasea colliery has deposed that on 1-1-1978 that Shri Joshi (MW-1) came to his residence at about 10 pm. and showed him injuries over his person. He found the following injuries on the person of Shri Joshi, namely, (i) small cut injury on the lateral angle of the left eye; (ii) small cut injury on nose; (iii) abrasion mark on chest. Nature of injury was simple. In his opinion the injuries might have been due to blows or fall on the ground. Shri Joshi told him that he had been assaulted by some workers. Dr. Mondal issued a certificate (Ext. M-12). According to him the cut injuries were not bleeding but the wounds were

fresh ones. Comment has been made on behalf of the workmen about delay of three hours in MW-1's visit to the medical officer. But MW-1 has stated in his evidence that he got himself examined by two doctors, one Mondal sponsored by the police and then at Parasea colliery at Dr. Mondal's residence (vide answer to question No. 5 put by Sri A. K. Burman, the management representative). So in my view the delay is sufficiently explained.

13. I have also considered the evidence of MW-2 Shri B. N. Addy, Senior Executive Engineer. His evidence to the effect that after getting report of the incident he went to the place of occurrence at about 7-30 p.m. and saw MW-1 there, is improbable and unacceptable, being materially inconsistent with the evidence of MW-1, MW-4, and MW-5, according to which MW-1 left that place in dumper just after the occurrence. It has been elicited in cross-examination of MW-2, that MW-1 had complained to him against Majeed. MW-6, B. N. Koley the supposed eye witness who has deposed that he had seen the actual beating of MW-1 by Majeed and Khan attempted to rescue him and lifted him from the ground after his fall is in my opinion not worthy of credit. He has not been named by MW-1 in his complaint or in his evidence as eye witness to the first phase of the occurrence or as a person who tried to rescue him at that time.

14. It is in evidence that MW-1 had no animus against Majeed or Khan. There is no reason why he would impute them falsely in a charge of assault. There is no suggestion that MW-4, S. P. Ghosh or MW-5, B. K. Acharjee had any ill-feeling against the delinquents or any of them. They have testified to the particulars of the main occurrence actually seen by them. In my view they are natural and truthful witnesses and their evidence is acceptable. Their evidence is materially consistent with evidence of MW-1.

15. The two workmen concerned in their reply to the show cause notice stated that as they belonged to the union of Shri T. N. Shukla, the J.E.T. (i.e. MW-1, Shri Joshi) was threatening them off and on saying that they should leave the party, otherwise their life would be made hellish and for that reason false charges were levelled against them. But this defence theory has not been followed by the concerned workmen in their evidence before the enquiry officer. Thus their defence appears to be false. In their evidence they have admitted the happening of some incident at the time and place at the alleged place of occurrence. DW-1, Majeed has admitted that at about 6.30 p.m. on that day he left his shovel, although he has said that he did so to answer a call of nature. He has stated that he was operating the shovel when he found Shri Joshi and Shri Addy (MW-2) going towards the ramp. He came to the workshop during tiffin time at about p.m. when he and Khan proceeded towards their residence they met Shri Joshi and one Shri M. Kamal who were coming from the other side. Shri Joshi had been complaining against him (Majeed) all the time. So he asked Shri Joshi as to the complaint he was making against him on that date i.e., on 1-1-1978. At this Shri Joshi became angry and started shouting. Hearing this other people also came and assembled there. DW-1 has also said that during tiffin time when returning from their residence he and Khan heard of reports of Shri Joshi to others that Shri Joshi had been assaulted by Majeed and Khan. Thus he has tried to explain the contemporaneous reports of the alleged assault circulating in the area.

16. The learned advocate for the workmen has referred to some variation or omission or inconsistency in the evidence adduced on behalf of the management. Although his criticism of evidence of MW-2, Addy and MW-6, B. N. Koley is justified, I do not find any material discrepancy or contradiction in the evidence of MW-1, MW-4 and MW-5. In deposition of witnesses there are always some minor discrepancies, however honest and truthful they may be. Variation in unimportant details is usually found in evidence of witnesses who come to tell the truth and are not tutored to tell a particular story. There is no better test of truth than to examine which of the two cases best accords with the facts beyond dispute, according to the ordinary course of human affairs and normal habits of life of the persons involved.

The adjudicator of facts has to judge the evidence by the yardstick of probabilities, its intrinsic worth and animus of witnesses. Judged by this test, the evidence of MW-1, MW-4 and MW-5 is substantially true and can safely be relied upon.

17. Relying on the evidence of MW-1, A.P. Joshi, MW-4, S. P. Ghosh and MW-5, B. K. Acharjee and the medical evidence of MW-8, Dr. K. Mondal which is consistent with the testimony of MW-1 as to the cause of his injuries, I find that the management has succeeded in proving the charge against the two concerned workmen satisfactorily. Their participation in the assault has been proved beyond doubt. I am therefore satisfied that the managerial finding of the guilt of the workmen concerned on the specific charge levelled against them is correct and should be upheld.

18. Coming to the question of punishment I find, having regard to the nature of the misconduct, the circumstances in which it was committed, the culture and education of the two workmen, their mental traits and disposition and the strata of society to which they belong that the punishment of dismissal is not justified. In this particular case dismissal will be harsh and not commensurate with the misconduct charged and proved. So in my view the punishment should be altered to the lesser punishment of depriving the workmen of back wages from the date of suspension and continuity of service while reinstating them. The order of dismissal is set aside. The two workmen concerned are re-instated without continuity of service and without back wages.

19. This is my Award. Let the requisite number of copies of the Award be forwarded to the Central Government for necessary action at their end.

Dated, Calcutta,

The 14th November, 1986.

AMITABHA DUTTA, Presiding Officer

[No. L-19012/10/80-D. IV(B)]

R. K. GUPTA, Desk Officer

नई दिल्ली, 8 दिसम्बर, 1986

का.आ. 4228.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, बैंक ऑफ बड़ौदा के प्रबन्धतन्त्र से सम्बन्धित नियोजकों और उनके कर्मचारियों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करता है, जो केन्द्रीय सरकार को 25 नवम्बर, 1986 को प्राप्त हुआ था।

New Delhi, the 8th December, 1986

S.O. 4228.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the Bank of Baroda and their workmen, which was received by the Central Government on the 25th November, 1986.

BEFORE SHRI R. B. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 209/84

Reference No. L-12012/96/84-D.II(A) dated 17-10-84

APPEARANCE:

Shri V. N. Sekhari—for the workman,

Shri A. N. Verma—for the Management.

AWARD

1. The Central Government, Ministry of Labour vide its notification No. L-12012/96/84-D.II(A), dated 17th October

1984, has referred the following dispute for adjudication to this Tribunal :

Whether the action of the management of Bank of Baroda in dismissing from service Shri Ram Babu Tiwari and Shri Amar Singh, peons in Tilak Nagar, Kanpur and Meerut Branches respectively with effect from 23-11-79 is justified ? If not, to what relief are the workmen concerned entitled ?

2. It is common ground that the workmen Shri Ram Baboo Tiwari and Shri Amar Singh were the permanent peons of the bank and were appointed by bank on 7-10-71 and 16-2-68 respectively, in the subordinate cadre and were subsequently terminated by the management bank. That they were issued a charge sheet on 8-3-79 in connection with one forged withdrawal of Rs. 700 from saving banks account no. 744 in the name of Shri Roop Singh a customer of the bank. Both the workmen replied the charge sheet dated 8-3-79 which were not considered by the management bank. It is further averred by them that the departmental enquiry held by the bank in an illegal manner against both the workmen who were dismissed from the banks services w.e.f. 23-11-79 vide letter dated 14-1-80. That the bank completed the departmental enquiry without affording the workmen proper opportunity of being heard. That the management's enquiry officer proposed the punishment of dismissal of both the workmen without notice which was later confirmed without considering the submissions made by the workmen against which the workmen preferred an appeal to the appellate authority and that too was upheld by the appellate authority. That the action of the management bank in dismissing the workmen was illegal, unjustified and liable to be set aside on the grounds that the charge sheet was not proper, that reasonable opportunity was not afforded to the workmen and the enquiry held against them was neither fair nor reasonable and were conducted in an arbitrary manner, that the enquiry officer and appellate authority were not validly appointed and they acted without jurisdiction, that the enquiry officer was neither appointing authority nor the punishing authority consequently his orders dismissing the workmen were illegal and without jurisdiction, that the dismissal of Shri R. B. Tiwari vide bank's letter dated 1-1-80, w.e.f. 23-11-79 was illegal, unjustified in view of payment of wages till 1-1-80 effect of which was that the order dated 1-1-80 became infructuous, inoperative, illegal and without jurisdiction and similarly on the same grounds the order of dismissal of Shri Amar Singh workman dated 14-1-80 w.e.f. 23-11-79 became infructuous illegal, and without jurisdiction on account of non payment of wages till 14-1-1980 for continuous service. It is further stated that proper delegation of power were not vested in the banking companies with regard to the appointment of enquiry officer and as such the appellate authority and the order of dismissal passed were illegal and without proper authority. It is further stated that the enquiry was defective as the material documents and witnesses were not produced including Mr. Shah manager of Hapur Branch and Mr. Dave passing officer and other staff of the branch. That the workmen were discriminated in the matter of serving charge sheet holding enquiry and inflicting punishment and no action whatsoever was taken against the employee handled the alleged withdrawal of Rs. 700 from the stage of presentation till the final payments and that the findings of the enquiry officer based on illegal evidence. That the punishment imposed on the workmen were very severe and disproportionate and highly excessive and in the end it is prayed that on the ground of contention made by workmen punishment of dismissal of workmen are liable to be set aside being unfair, unjustified, mala fide and without authority. It is prayed that the workmen be reinstated with full back wages.

3. In the written statement the management bank averred that the workmen Shri R. B. Tewari and Amar Singh had fraudulently withdrawn a sum of Rs. 700 from the saving bank account of Shri Roop Singh and for this acts of misconduct both were charge sheeted. It is further contended that both the workmen were given reasonable opportunity to defend themselves and were represented by highly qualified representative and enquiry officer conducted the inquiry in fair and impartial and objective manner. It is further averred that the enquiry officer after holding the enquiry found the charge sheeted employee guilty of charges levelled

against them and after considering the submissions made by them proposed the punishment of dismissal from service without notice which was later confirmed and the workmen preferred an appeal against that proposed punishment before the appellate authority which were dismissed. It is further contended that the dismissal order became effective from the date when it is passed and thereafter the workmen were not entitle to any salary and since the order of dismissal appears to have been served on the workmen on 14-1-80 they can not be said to be entitle to salary for the period between 13-11-79 to 14-1-80, the date of service of the said dismissal order.

4. The management has filed 7 documents per list dated 19-4-85 Paper no. 1 is charge sheet dated 8-3-79 issued to workman Shri Amar Singh. Paper no. 2 is the enquiry report against workman Shri Amar Singh dated 2-11-79 and is signed by the enquiry officer. Paper no. 3 is the final orders i.e. punishment order signed by enquiry officer and is dated 23-11-79. Letter dated 31-12-79 is paper no. 4 which sent to the Regional Manager by Shri V. R. Iyer representative for the workmen. Paper no. 5 is letter dated 11-4-80 addressed to Shri Amar Singh workmen of appellate authority alongwith final orders photo copy of which has been filed alongwith this letter and the same is dt. 28-3-80 signed by the appellate authority. Paper no. 6 is letter of authority dated 3-6-78 signed by Chairman-cum-Managing Director regarding delegation of powers under disciplinary matters and the last paper is of 12th January, 1979 signed by the A.G.M. which is notice to both the workmen against their appeal. The management has in the same sequence filed 7 documents per list dated 19-4-85 regarding workmen Shri R. B. Tewari.

5. Workmen have filed rejoinder on 3-5-85 and almost therein have reiterated the averments made in the claim statement.

6. Management in support of its case have filed affidavit evidence of Shri M. K. Bose, DGM of the bank wherein deponent has deposed that on 1-3-73 one Mr. Roop Singh account holder of Saving Banks Account No. 444 came to the bank to withdraw Rs. 700. He was provided with withdrawal form which he signed it in Gurumukhi and gave it to Shri Amar Singh for being filled up before presenting as he was illiterate on which Amar Singh gave him another withdrawal form without returning or destroying the earlier withdrawal form on the pretext that the signature of the customer on the earlier form do not tally with the specimen signature maintained by the bank.

7. The question to be considered in this case is whether on the charges given to the two workmen separately, management has been able to prove the same by legal evidence or whether the same is passed on illegal and inadmissible evidence and principles of natural justice were not followed during the departmental enquiry as a result of which the enquiry was not fair and proper and the enquiry officer arrived at a perverse finding.

8. The charges against the workman Amar Singh in the charge sheet was that one Roop Singh account holder of saving bank's account no. 444 gave a withdrawal form for Rs. 700 duly signed to Amar Singh who by false representation that his signature did not tally with his signatures in bank's record obtain another signature of said Roop Singh for another withdrawal form for Rs. 700 without returning the previous one and after withdrawing the money of earlier withdrawal form kept with him and on wrong representation misappropriated the same. The charge against workman Shri R. B. Tewari is that he in collusion with workman Amar Singh obtained signatures of Roop Singh account holder on a withdrawal form and filled the said withdrawal form for Rs. 700 and dated as 24-7-84 and fraudulently withdrew the money signing the withdrawal form himself as Rameshwar Singh and received the cash. Thus the complicity of said Shri R. B. Tewari could be established if it is proved by cogent and reliable evidence that the writing on the dispute withdrawal form was that of his.

9. In the case of this nature there is a question of belief and disbelief as to whether said Roop Singh did give another withdrawal form duly signed after a false representation by him that the earlier withdrawal form given by him was not honoured as his signatures on that did not tally with the

signature on the record of the bank i.e. on the signature specimen card. The case is that the said Roop Singh had gone to the bank for withdrawal of Rs. 700 on 1st March, 1974. On that withdrawal form filled by him that day he withdrew Rs. 700 but it appears that on the first withdrawal form another amount of Rs. 700- was withdrawn from his account on 24-7-74, which he did not withdraw and he made a simple complaint of this illegal withdrawal to the Branch manager on 21-8-74, and on the day he had withdrawn Rs. 700 bank peon Amar Singh told him that his signatures on the withdrawal forms given by him did not tally with the specimen signature record as he had signed differently hence he should sign another withdrawal form for the same. It was on this subsequent withdrawal form given by him that he received the money from the bank.

10. It has come in the evidence of Roop Singh before the enquiry officer that after withdrawal of the amount he had gone to Punjab and after return from there when it came to his notice that another amount of Rs. 700 was withdrawn from his account on 24-7-74 then he made a complaint about it with the branch manager on 25-8-85. In that complaint he did not mention his suspicion on workman Amar Singh probably he did not suspect him till then. It appears from the record of the enquiry proceedings that preliminarily investigation was entrusted to banks investigation officer Shri K.S. Abott who contacted the account holder Shri Roop Singh on 27-9-75 and then he confirmed what he had given in writing addressed to the branch manager regarding which the defence representative drew his attention in cross examination and which is marked as Ext. Mex. 3. In this application the informant Shri Roop Singh from whose account 700 was withdrawn recollected his memory and stated that on 24-7-74 when he wanted to fill up a withdrawal form for withdrawal of Rs. 700 the bank peon Shri Amar Singh told him that he had not made signature in the usual course hence he should fill up another withdrawal form which he complied but the earlier form which he had filled he left there as he did not know that he should have destroyed the earlier form. He had stated before enquiry officer in examination in chief that he and bank peon Amar Singh stayed in the same building. It may be mentioned here that the second withdrawal dt. 24-7-74 bore his signature which was actually withdrawn by some Rameshwar Singh. The management's case is that the other workman Shri R.B. Tiwari withdrew that amount from the bank signing withdrawal slip himself as Rameshwar Singh. On this point there is one report of the hand writing expert Shri R.C. Chaudhary. Admittedly he was never examined before the enquiry officer as he was dead. His report could not be accepted in evidence by the enquiry officer as such and the management should have got the whole thing examined by another expert and produced him before the enquiry officer for cross examination. This having been not done his report is of no avail. On the other hand the workman has examined another handwriting expert Shri B. S. Chaudhary. He has given his opinion that the two writings did not tally. Before the enquiry officer one Y.K. Arora appeared in the witness box and gave his opinion that the writing on the disputed withdrawal form as Rameshwar Singh and specimen writing of workman R. B. Tiwari tallied. Beside pictorial effect he had not given any scientific reason why and on what grounds he is of the opinion that they tallied, thus opinion is of no avail and can not be relied upon. Similarly the enquiry officer in his report has confirmed the findings of the Y. K. Arora, he too, being in the capacity of Judge has a right to accept or reject the opinion and in case he accepted the findings of Y. K. Arora and rejected the defence opinion he should have given reasons for that which is not there. In these circumstances the report so far it relates to workman Shri R. B. Tiwari workman is based on no legal evidence and is perverse to that extent.

11. Now coming to the case of Amar Singh there is statutory statement of account holder Shri Roop Singh informant. It appears that he had no reasons to doubt that Amar Singh who was known to him as both of them were living in one and in the same building and had been helping him in bank affairs would himself play a fraud on him. It was on that count that in the first complaint dated 21-8-74 that in the first complaint dated 21-8-74 he did not mention his suspicion over Amar Singh.

12. As time elapsed after about one year and after re-collecting full facts he came out with the version given in the second application addressed to the branch manager on 19-9-75 Ext. M-3 in which he stated that Amar Singh got another withdrawal form filled in from him on the day he withdrew Rs. 700 from the bank and had not returned the earlier form and that form containing his signature was probably utilised on 24-7-74 for withdrawal of Rs. 700. It has been argued that Amar Singh has been falsely implicated. It could have been so had there been no instance of ill will malice or some such thing. The very fact that the earlier withdrawal was also got filed for Rs. 700 which was ultimately withdrawn on 24-7-74 lend support to the contention of Roop Singh that the second withdrawal form for Rs. 700 got filled in duly signed by him at the instance of Amar Singh on the pretext that his signature did not tally was really used on 24-7-74. The reason why the informant did not arise his suspicion on Amar Singh appears to be natural and plausible as Amar Singh was known to him living in the same building and could hardly accept that he would play a fraud of this nature on him by utilising earlier withdrawal form containing his signature and not destroying the same on that very day before him.

13. In these circumstances the enquiry officer was perfectly justified in relying on the testimony of Roop Singh and holding Amar Singh guilty of the charge. The only question arises if the domestic enquiry was not fair and proper and principles of natural justice were not observed. That part of the enquiry have been whittled down which related to Shri R. B. Tiwari as the findings against Shri R. B. Tiwari is based on no legal evidence. As regards Amar Singh there is legal evidence of Roop Singh informant the witness examined by the management before the enquiry officer but were cross examined on behalf of the workmen, further the workmen were given opportunity of defence to prove their innocence. The representative for the workmen drew my attention that the document summoned by the defence was not allowed on the ground that administration letters could not be summoned. In the face of direct evidence administration letters are of no avail, moreover what transpired during the enquiry and what correspondence took place between officer concerned will be immaterial before the enquiry officer who sits as a judge and has to decide the enquiry on legal and reliable evidence. Administration letters have no bearing in this proceedings or enquiry unless there is any specific application alongwith affidavit that the management is holding letters which contain writing adverse to the party, thus that is no ground for holding the enquiry as vitiated.

14. Thus the enquiry was fully justified in disallowing the question to the informant and regarding pendency of any criminal case of abduction against him. Even if that be so or true that will not go to believe his statement that he handed over two withdrawals forms duly signed by him to workman Amar Singh on one and same day on the pretext that the signatures not tallied and that the said withdrawal form was not destroyed. As observed earlier the workman should have given cogent reasons and circumstances that his testimony on that count was not worthy of reliance. I am not inclined to disbelieve Roop Singh informant that for a petty sum of Rs. 700 he will implicate a known man who had been helping him in all bank affairs and was so close that they were living in the same building.

15. Thus the facts and circumstances pointed out by defence representative, do not go to show that the enquiry is perverse regarding Amar Singh and hence is not liable to be vitiated on this ground alone. In case of Amar Singh it can not be said that the principles of natural justice were not followed. I, therefore, hold that in the case of Amar Singh workman the enquiry was fair and proper and can not be vitiated.

16. As regards punishment awarded by the management I agree with the defence representative that it was no duty of the enquiry officer to have suggested the punishment. That was management prerogative and the disciplinary authority should have concluded the enquiry with submission of his report on the charges if proved or not proved. After submission of report of the E.O. on 2-11-79, the two work-

men were given personal hearing on 16-11-79 by disciplinary authority and it was after that the orders of their termination were passed on 23-11-79 by the disciplinary authority. The two workmen preferred an appeal which too was dismissed on 1-4-80, thus in view of the reasons and the circumstances, discussed above, I see no reason to interfere with the enquiry.

17. As regard punishment, it appears to be severe, looking to the circumstances of the case, hence I am inclined to substitute the said punishment by withholding of 50 per cent of pay in lieu of dismissal. The result is that the workman Amar Singh is reinstated with 50 per cent back wages and workman R. B. Tiwari is reinstated in service with full back wages.

18. I, therefore, given my award accordingly.
Dated : 17-11-86.

R. B. SRIVASTAVA, Presiding Officer
[No. L-12012/96/84-D.II(A)]

नई दिल्ली, 9 दिसम्बर, 1986

का.आ. 4229—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, कलकत्ता पोर्ट ट्रस्ट के प्रबन्धनतन्त्र से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबन्ध में निविष्ट औद्योगिक विवाद में मध्यस्थ के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26 नवम्बर, 1986 को प्राप्त हुआ था।

New Delhi, the 9th December, 1986

S.O. 4229.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Arbitrator as shown in the Annexure in the industrial dispute between the employers in relation to the management of Calcutta Port Trust and their workmen, which was received by the Central Government on the 26th November, 1986.

IN THE MATTER OF ARBITRATION IN THE INDUSTRIAL DISPUTE BETWEEN CALCUTTA PORT TRUST, CALCUTTA AND THEIR WORKMEN REPRESENTED BY NATIONAL UNION OF WATERFRONT WORKERS (INTUC) AND CALCUTTA DOCK WORKERS' UNION (HMS) OVER PROMOTION OF PORTERS AND NUMBER TAKERS ATTACHED TO THE COAL HANDLING UNIT UNDER CONTROLLER OF STORES.

PRESENT :

H. G. BHAVE,

Jt. Chief Labour Commissioner (C) ...Arbitrator

Representing Employers

(Calcutta Port Trust.

1. Shri D. K. Mukherjee,
Industrial Relations Officer.

2. Shri M. K. Biswas,
Dy Controller of Stores.

Representing workmen

1. National Union of Waterfront
Workers (INTUC)

1. Shri Sunil Das Gupta
Working President

2. Shri Shyam Chakraverty,
Secretary

3. Shri Bibhuti Singh,
Vice President.

2. Calcutta Dock Workers' Union

1. Shri W. A. Azad,
Joint Secretary

2. Shri B. Prasad,
General Secretary.

AWARD

INDUSTRIAL: Port & Docks.

STATE: West Bengal.

By an Arbitration Agreement under Section 10-A of the I. D. Act, 1947, between the Management of Calcutta Port Trust, Calcutta and Working President, National Union of Waterfront Workers (INTUC) and General Secretary, Calcutta Dock Workers Union (HMS) reached on 3-8-85 which was released for publication by the Government of India, Ministry of Labour vide their order No. 32013/1/85-D. IV(A) dated 25-9-85, the parties agreed to refer the following issues for my arbitration :

- (a) Whether the claim of the porters attached to Coal Handling Unit under the controller of Stores and departmentalised as such with effect from 1-8-78, for being considered for promotion to posts of Lascar on the Coal Boats is justified, inspite of the fact that the Porters in General Stores are only eligible for such promotion. If so, what should be the ratio between these two groups of workmen for such promotion?
- (b) Whether the claim of the Number Takers attached to Coal Handling Unit under the Controller of Stores for being considered for promotion to posts of Delivery Sircar and Despatcher in the General Stores is justified, inspite of the fact that the Number Takers in the General Stores are only eligible for such promotion? If so, what should be the ratio between these two groups of workmen for such promotion?

2. After Arbitration Agreement was released for publication in the Gazette of India, registered A/D letters were sent to the parties on 30th October/1st November, 1985 calling for their written statements within 15 days endorsing copies to the opposite parties simultaneously. The parties were further requested to submit re-joinders on the statement of the case to this office within 15 days of the receipt of the written statements. Further reminders were sent on 12-12-85. In the meantime, a written statement of the employers dated 29-11-85 was received by the Arbitrator on 9-12-86 and the employers had also sent the proof to the effect that a copy of their written statement was also sent to the 2 involved Unions. The written statement of the National Union of Waterfront Workers (INTUC) sent on 29-11-85 was also received by the Arbitrator on 4-12-85. The employers sent their re-joinder to the written statement of the NUWW on 12-12-85 which was received on 20-12-85. A copy of the same was duly served on the 2 Unions in question on 13-12-1985 by the employers. The Calcutta Dock Workers Union (HMS) submitted its written statement on 24-12-85. The National Union of Waterfront Workers (INTUC) submitted its re-joinder on 26-12-85 to the written statement of the employers. The case was then ripe for hearing. Accordingly on 3rd March, 1986 notices were issued to the parties to attend the hearing in the office of the RLC(C), Calcutta on 19-3-86. On that day all the 3 parties were duly represented in the hearing. The parties filed a joint agreement before the Arbitrator extending the period for releasing the Award upto 30-6-86. In the first hearing, the representatives of the 2 unions indicated that the Calcutta Port Trust have no schedule of duty in respect of porters and number takers attached to the Coal Handling Unit under the Controller of Stores. Hence, it would be in the fitness of things if the CPT prepares and files the schedule of duties of the two involved categories before the Arbitrator with a copy to the 2 Unions. The employers were directed to do the needful within a period of 3 weeks from that date, and send copies to the 2 Unions. The hearing was adjourned. Thereafter the Calcutta Port Trust sent a petition on 11-4-86 indicating the schedule of duties in respect of involved category of workers. Vide telegram dated 21-5-86 further hearing was fixed at Calcutta on 28-8-86. Hearing was held partly on 28-5-86 and continued on the

next day. All the 3 parties concluded their arguments and the Arbitrator hinted that for seeking any clarification/elucidation one more meeting may be held at New Delhi in June, 1986 but that was not required. Thus, in the instant Arbitration case final hearing was held and concluded on 29-5-86 at Calcutta. At the end of the hearing at Calcutta, the Arbitrator had directed the employers to furnish information on certain connected issues which was done by the employers on 11-6-86 which communication was received by the Arbitrator on 16-6-86. A joint agreement between 3 involved parties drawn towards the end on June, 1986 was received by the Arbitrator accordingly to which the parties had agreed that the Arbitrator may release his Award during the further extended period of 31-8-86. This period has been subsequently extended upto 30-9-1986 and finally upto 30-11-86 vide petition dt. 30-9-86.

3. The case of the National Union of Waterfront Workers (hereinafter referred to as the NUWW) is that it reiterates its stand taken in written statement dated 29-11-85 and its rejoinder dated 26-12-85 to the employer's written statement. According to it, the Calcutta Port Trust has a number of departments including Controller of Stores Department. The workmen covered by the dispute and in the terms of reference to the Arbitrator belong to this Department, the main function of which is to purchase and stock various materials for subsequent supply as per requisition/indent received from different departments. According to the NUWW there are 41 categories of workmen in the Controller of Stores Department which include the categories of "Porters", "Working Tindals" and "Tindals" (ex-supervisory) meant specially for each handling work. The coal handling work is done by 52 porters and 9 working Tindals and the work includes unloading of coal arriving in Railway Wagons and boats as per purchases done by the Controller of Stores of Calcutta Port Trust, loading the same on to different steam crafts (Vessels) belonging to the Director, Marine Department and on to steam locomotives belonging to CME's Department of the Port Trust. The 2 Tindals (ex-supervisors) maintain the accounts of the supply and supervise the performance of the 52 porters and 9 Working Tindals. Till that year 1970 these porters, Working Tindals and Tindals were under the Employment of different Contractors engaged by the Calcutta Port Trust. As a result of the prolonged efforts made by the NUWW the services of these workmen were taken over by the Controller of Stores, Calcutta Port Trust and in doing so a casual labour pool was formed w.e.f. 26th July, 1971 consisting of the workmen who were so long working under Contractors. Subsequently these Porters/Working Tindals/Tindals were absorbed temporarily in the regular establishment against regular posts under the Controller of Stores w.e.f. 1-8-78 as per the Tripartite Settlement reached on 19-7-78 before the ALCC, Calcutta. According to the settlement the workmen covered by it were to be governed by the Trustees existing Service Rules etc. as amended from time to time. The NUWW drew the attention to Ministry of Labour and Employment's Notification dated 22-6-85 referring 11 items for adjudication to CGIT Dhanbad. It further stressed that these issues were also covered by Reference No. 1 of 1956 and on which Justice A. Das Gupta had given its Award. The item No. 7 among the issues adjudicated by the CGIT was on "Avenue of Promotion for class IV employees" of Calcutta Port Trust known as Calcutta Port Commissioners at that point of time. Award given by the CGIT it reference No. 1 of 1956 covering 11 issues was published in the Govt. of India Gazette on 30th January, 1958. The Award had clearly laid down the channels of promotion and promotional opportunities for class IV employees. Neither in the year 1955 when the reference was made nor in the year 1958 when the Award was given these Porters/Working Tindals/Tindals were under the direct employment of the coal handling unit of controller of stores of the Calcutta Port Trust as they were being deployed by the Contractors then. The NUWW further stressed that after these Porters/Working Tindals/Tindals were taken over from 1-8-78 directly by the Calcutta Port Trust under the Controller of Stores Department on terms of the provisions of the aforesaid Tripartite Settlement, these workmen were to be taken over in direct employment of the Port Trust and were to be governed by the existing service rules as amended from time to time. Hence the NUWW had demanded that they should be considered for promotions to the post of Lascars on Coal Boats in lieu of being recruited from amongst the

Porters in the General Stores unit of the Controller of Stores Department, Calcutta Port Trust. The Union had also been demanding that under the changed circumstances the Number Takers attached to the Coal Handling Unit of the Controller of Stores should also be considered for promotions to the post of Delivery Sincar and Despatcher in the General Stores Unit of the Controller of Stores Department, Calcutta Port Trust. Due to the Union's Persuasion a memorandum of settlement was drawn up on 1-6-84 before the then Assistant Labour Commissioner (C), Calcutta-II. The term No. 3 of the said settlement provides as follows :—

"The Coal handling Tindals in this Unit shall be promoted to the post of Number Takers on observance of the usual procedure which includes written tests". Term No. 5 is also relevant of the said settlement according to which the dispute with regard to the promotion of both porters in the General Stores and the Coal Handling Porters in the Separate Unit set up for them to the posts of Lascars on Coal Boats shall be referred for Arbitration under Section 10-A of the I.D. Act 1947 and it is included in this reference which is under Arbitration. Similarly item No. 6 of the said settlement dated 1-6-84 lays down that the dispute with regard to promotion of Number Takers in the coal handling unit to the post of Delivery Sincars and Despatcher in the General Stores shall also be subjected to arbitration which is accordingly included in the specific matter in dispute referred to the Arbitration.

3.2 The Union asserted that all categories of workmen belonging to Class III and Class IV cadre and employed in various Departments of the Port Trust have more or less some scope of promotion excepting these Porters/Working Tindals/Tindals (ex-supervisors) of the Coal Handling Unit. The NUWW, therefore, maintained that justice and fairness demands that the coal handling unit workmen in question should not be discriminated and they should also have some avenues of promotion. The NUWW further expressed that the Porters/Working Tindals who have been working in the Coal Handling Unit of the Controller of Stores under Calcutta Port Trust possess more experience of working on boats as compared to the Porters of the General Stores Unit of the CSD. Hence, the posts of Lascars should henceforth be filled up from amongst the Porters and Working Tindals in lieu of the Porters attached to General Stores Unit. Case of CDWU

4. The other union which is a party to this arbitration agreement and the proceedings namely Calcutta Dock Workers Union (hereinafter referred to as the CDWU) drew its attention during the pleadings to its written statement dated 24-12-85 and more or less advanced similar arguments as put forth by NUWW. However, explaining its stand it indicated the pay scales attached to various categories of staff viz. the Porters, Tindals, Lascars, Delivery Sincar/Despatcher and Number Takers. It argued that the pay scales of a porter attached to Controller of Stores and of a Porter attached to General Stores and Engineering Section is the same. Previously entire operation of coal distribution to different places, on the vessels, Docks, Dumps were done from Shalimar Coal Depot but now the entire operation is being done at 14, Coal Berth KPD and 1, NSD. The Union argued that there is nexus between the work of Lascars and coal handling workers and they work on the same places. Hence, the demand of porters of coal handling unit to be promoted as Lascars is quite legitimate and justified. According to it Lascar is the promotional post for the porters and entire vacant place of lascars on the Coal lighters should go in favour of porters of coal handling unit under the Controller of Stores. The porters of coal handling unit do not get other benefits. At present the post of lascars of coal lighters are filled up from the porters of the General Stores and Engineering Stores Section. Since Lascar is the promotional post for porters of General Stores and Engineering Stores why the said post of Lascars should not be the promotional post for the porters of coal handling unit under the Controller of Stores.

4.2 That very recently as per settlement dated 1-6-1984, 3 posts of Number Takers have been created in the Coal Handling Unit under the Controller of Stores and these are the promotional posts of Tindals of Coal Handling Unit. Since there is no further scope of promotion of the Tindals of

Coal Handling Unit under the Controller of Stores as number Takers, and also there is no promotional post for the Number Takers, the demand of Number Takers of Coal Handling Unit as Delivery Sircar and Despatcher is quite justified. Otherwise they will be stagnated.

4.3 That there are 8 posts of delivery sircar and 12 posts of Despatcher in the Stores Department and the posts of Delivery Sircar and Despatcher is the promotional posts of Number Takers of the General Stores and Engineering Stores Section, these posts of delivery sircar and Despatcher should also be treated the promotional posts of the Number Takers of the Coal Handling Unit under the Controller of Stores. Because the jobs responsibility of the Number Takers attached to the General Stores and Engineering Stores Section and that of the Controller of Stores are identical and they perform the same nature of duty and jobs. Therefore, the number takers of General Stores and Engineering Stores Section and the number takers of Coal Handling Unit under the Controller of Stores should be promoted to the posts of Delivery Sircar and Despatcher at the ratio of 50 : 50.

4.4 That from the facts stated in the foregoing paragraph it is crystal clear that the demand of the Porters attached to Coal Handling Unit under the Controller of Stores for getting promotion to the posts of lascars on the Coal Boats is quite justified and ratio should be 100 per cent in favour of the porters of Coal Handling Unit under Controller of Stores.

4.5 That it is also quite clear from the facts narrated that the demand/claim of the Number Takers attached to Coal Handling Unit under the controller of Stores for being considered for promotion to the posts of Delivery Sircar and Despatchers in the General Stores is quite justified and ratio in this regard should be 50 : 50.

4.6 That the CDWU prays that the case should be decided in favour of the claims of the porters and Number Takers of Coal Handling Unit attached to the Controller of Stores.

5: Employer's Case.—On behalf of the Calcutta Port Trust Shri D. K. Mukherjee, Industrial Relations Officer reiterated the stand contained in their written statement dated 29-11-85 and the rejoinder dated 12-12-85. In brief his contention is that the Calcutta Port Trust is a body Corporate constituted under the Major Port Trust Act, 1963 as amended in 1974. For the efficient Management, control and Administration of the affairs of the Port, the board of Trustees of the Calcutta Port has a number of departments including the "Stores Department". This Department is responsible for purchase of store materials required by the Board and their distribution to various points. In fact this Department deals with more than 10,000 stock items and about 24,000 non-stock items. Huge quantity of coal (about 3,000 tonnes per month) is procured by the Stores Department and distributed to different vessels/Crafts under the Marine Department and also to other vessels, cranes or shop and loco under the Chief Mechanical Engineers Department. But Stores Department has various units and sections to deal with purchase of different items and their distribution. This Department is headed by the Controller of Stores. The instant Arbitration concerns some of the workmen of the Stores Department. Shri Mukherjee traced chronologically the history of handling of coal and pointed out that up to 1971, in Dock area coal used to be unloaded from railway wagons by the contractors labour. From the coal bins, the Chief Mechanical Engineers Department under the Board take delivery of coal by their own arrangement. Apart from the coal bins there are 2 dumps in a Dock Area (one at 14 Berth KPD and the other at 1, NSD). From these dumps coal is delivered to different places including the vessels by the Stores Department. Handling of coal at the dumps also used to be done by the contractors' labourers upto 1971. In Shalimar Yard Railway wagons containing coal were unloaded in the dumping Yard. From the dumping yard coal used to be loaded on boats i.e. coal lighters. These were towed by motor launches to different vessels for supply of fuel. Unloading of coal from railway wagons and loading of coal to coal lighters or direct on to the vessels was being done by the contractors' labour upto 1971. From the early 70's coal is not being handled at Shalimar Yard. Subsequently the workmen attached to the towing launch did not belong to the Stores Department. Coal Lighters are however always manned by the workmen of the Stores Department. Earlier there were 5 coal lighters but the number is now 4 only. He then explained the manning scale of these coal lighters, the sanctioned strength and the actual number in position. He

stated that lascars' number has gone down to 10 and calls for immediate argumentation. He further explained the quantum of various allowances paid to lascars etc. According to the existing practice the posts of lascars are filled in from the porters in the general stores and engineering stores sanctions.

5.2 After explaining the factual position the spokesman for the Port Trust examined the various arguments put forth by the NUWW and CDWU. He asserted that the demands of the 2 unions is presumably that there is a nexus between job performed by the coal handling porters who handle coal on shore and that performed by the Lascars and Manjhis who work on the coal boats. Keeping in mind the object attached to various posts he stated that coal handling porters and the lascars and Manjhis work in a chain in the total process of receipt and delivery of coal. As such the entire work should be the work of the workmen in the coal handling Unit. Hence the Unions presumably feel that the posts of lascars should be the promotional post for the basic workers engaged in handling of coal. Similarly in regard to promotion of the Number Takers of the Coal Handling Unit to the post of Delivery Sircar and Despatcher. He indicated that the Unions feel that when all the Number Takers are considered for promotion to these posts there is no justification for denying such opportunity to the Number Takers of the Coal Handling Unit. Shri Mukherjee gave the historical background of the scheme of promotion of the workmen of the Stores Department. According to him the 1957 Das Gupta Tribunal award is still subsisting. It provides that all promotions for Class IV employees in the establishments of CPC shall be unit wise except where otherwise indicated. The Unit wise promotion from the lower grades to upper grades has been outlined in a chart annexed to the Award. He then elaborated about the actual provisions of the Award and inferred that the Unions can not raise any demand for change of procedure of promotion of concerned workmen when a valid Award is subsisting. He also denied the contentions of the Unions that the porters in the General Stores have ample promotional opportunities as compared to their counterparts in the coal Handling Unit. The Port feels that there should not normally be any change in the avenue of promotion shown in the Award. Hence according to them the first demand given in '(a)' of the specific matter in dispute is not justified.

5.3 In regard to item '(b)' of the reference to the Arbitrator, the stand of the Calcutta Port is that the demand of the unions regarding the Number Takers attached to the coal handling unit is also not fair and justified on as such as the work performed by the Delivery Sircars and Despatcher is of semi-clerical nature. Class IV employees attached to the various units and sections in the Stores Department, except the Coal Handling Unit have the opportunity of acquainting themselves with the procedures of work in connection with Delivery of materials and despatch of letters and broadly with the clerical type of job. According to the Port it is, therefore, proper that the Number Takers of the Stores Department except those in the coal handling Unit should only be considered for promotion to the post of Delivery Sircars and Despatchers. Summing up Shri Mukherjee asserted that, the concerned workmen are not entitled to any relief.

AWARD

6. I have carefully examined various submissions made by the parties through their written statements, rejoinders and pleading made during the arguments in hearing at Calcutta. The accepted facts are that the work of loading and unloading of coal was carried out by the contractors labourers upto 1971. Eventually, there was demand from the contractors' workers for departmentalisation in the Stores Department. Ultimately a bi-partite settlement was reached with the Calcutta Dock Workers Union on 22-6-71 by which it was decided to form a pool of coal handling workers under the controller of stores on certain terms and conditions including the hours of work, wage payments, norms of work etc. These service conditions have been later on improved by several Bi-partite/Tri-partite settlements under the Industrial Disputes Act, 1947, ranging between 17-7-72 to 1-6-84. These settlements have been signed from time to time either with the CDWU or NUWW or with both the Unions. One such Tri-partite settlement on 21-10-80 afforded the facility of confirmation to the workmen of the pool. Following the settlement of 1-6-84 even a separate establishment of the coal

handling workers under the Controller of Stores known as the coal handling Units has also been created. In regard to Delivery Sircars and Despatchers, they carry the same scale plus other allowances and these are semi-clerical posts. While opposing the claim of the Unions, the employers have relied heavily on the Award of the Das Gupta Tribunal given in reference No. 1 of 1956 which was published in the Govt. of India Gazette on 30-1-58. Much water has flown down the River Hoogli since 1958 and to use this Award to decline to meet the aspirations of the workers now does not seem proper. There being a nexus between the work of Lascars and coal handling workers, the aspirations of the porters, to get promoted as lascars can well be appreciated. Had this category of workers not been working under Contractors upto 1971 and had they been under the Port Trust then, they would have availed of the benefits of the Das Gupta Award. The Management should have on their own come forward and thought of avenues for their promotion etc. which was not done but anyway their agreeing to arbitration on these point vide terms 5 and 6 of the settlement dated 1-6-84 is definitely a step forward and is welcome. Time has now come to undo the wrong that has been done to this category of workmen who now are very much part and parcel of the entire complement of the Calcutta Port Trust. The demand of the Unions on this score term (a) is, therefore, held as justified.

6.1 It is reported that there are 8 posts of Delivery Sircars and 12 posts of Despatcher in the Stores Department. Their pay scales are from Rs. 665-1015 plus other allowance. These posts are semi-clerical. In the past, Number Takers and makers in the General Stores and Engineering Stores Sections who were promoted from posts of Daftry were only allowed to stand for a department-wise selection for the post of Delivery Sircar and Despatcher. Other Number Takers of the same unit who were promoted from the post of Maniher were however, not allowed this opportunity. The pleading rescal that at present posts of Delivery Sircar/Despatcher are filled up on the basis of selection by written-cum-oral tests from the workmen including the Number Takers of the General Stores and Engineering Stores Sections who are able to read and write English. Other workmen of the Section besides the Number Takers should have completed 5 years' service in the feeder post to be eligible for selection. I also understand that apart from the post of Delivery Sircar and Despatchers in the General Stores and Engineering Stores Sections, there is no post of Delivery Sircar or Despatcher in the Coal Handling Unit.

6.2 Keeping in view the pleadings of the parties and my analysis given in the Preceding paragraphs, I feel that the ends of justice will meet if I award as follows :

(A) The claim of the porters attached to the coal handling unit under the Controller of Stores and Departmentalised as such w.e.f. 1-8-78 for being considered for promotion to posts of lascars on the Coal Boats is justified in spite of the fact that the porters in General Stores only are at present eligible for such promotions. As regards the ratio it would be sufficient on the basis of the facts presented before me if the same is in the proportion of 1:1 between the porters of coal handling unit and the General Stores. This will be applicable to the existing vacancies and these arise in future.

(B) The claim of the Number Takers attached to Coal handling unit under the Controller of Stores for being considered for promotion to posts of Delivery Sircar and Despatcher in the General Stores is justified. However, no ratio can be fixed as the posts are semi-clerical and written cum oral tests from the workmen is being taken at present. The existing rules/instructions on the subject may be so revised/amended so as to enable the eligible Number Takers attached to the coal handling unit also to compete with others.

I award accordingly.

6.3 I place on record the unstinted co-operation given to me by the employers and the NUWW and CDWU during the arbitration proceedings and for extending time from time to time to enable me to release the Award.

New Delhi.

November, 27th, 1986.

H.G. BHAVE, Joint Chief Labour
Commissioner (C) & Arbitrator
[No. L-32013/1/85-D. IV (A)]

का. प्र. 4230.—औद्योगिक विवाद अधिनियम, 1947
(1947 का 14) क. धारा 17 के अनुसरण में, केन्द्रिय सरकार,
पंजाब नेशनल बैंक के प्रबन्धतंत्र से सम्बद्ध नियोजकों और
उनके कर्मचारों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद
में केन्द्रिय सरकार औद्योगिक अधिकरण कानपुर के पंचाट
को प्रकाशित करता है, जो केन्द्रिय सरकार को 24 नवम्बर
1986 को प्राप्त हुआ था।

S.O. 4230.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Punjab National Bank and their workmen, which was received by the Central Government on the 24th November, 1986.

BEFORE SHRI R. B. SRIVASTAVA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial dispute No. 15/86

Reference No. L-12012(22)/85-D.IV(A) dated 17-1-86

In the matter of dispute between :

State President, Punjab National Bank Employees Union,
Raipur Road, Dehradun.

AND

The Regional Manager Punjab National Bank, Regional
Office, 18, New Road, Dehradun.

AWARD

1. The Central Government, Ministry of Labour vide its Notification No. L-12012(22)/85-D.IV(A) dated 17-1-86 has referred the following dispute for adjudication on this tribunal :

"Whether the action of the management of Punjab National Bank Dehradun, in denying the five slabs of special allowance to Shri M. C. Jain Teller with effect from 1-3-1984 when he reverted back to the clerical cadre is justified? If not, to what relief is the workman concerned entitled?"

2. Workman submitted his statement of claim and the management filed written statement thereon.

3. At later stage parties submitted settlement verified the same before the court and requested for giving award in terms of the settlement.

4. The case was ordered to be decided in terms of settlement.

5. In consequence of the settlement filed and verified before court award is hereby given in terms of settlement as under :—

Terms of settlement :

1. Without prejudice to the contentions of the parties made in the respective written statement, it is agreed that Shri M. C. Jain, workman concerned, will be allowed special allowance in lieu of his educational qualifications in terms of provisions of the Bipartite settlement from the date of his reversion to the clerical cadre w.e.f. 1-3-1984.

2. The Union and the workman herein concerned agree that by this settlement, the instant matter is fully and finally resolved and there shall be no other claim whatsoever in connection with the instant matter.

3. Both the parties pray that Hon'ble Tribunal may be graciously pleased to pass an award in terms of the settlement.

I, therefore give my settlement award accordingly.

R. B. SRIVASTAVA, Presiding Officer
[No. L-12012/22/85-D. IV(A)]

नई दिल्ली, 11 दिसम्बर, 1986

का.अ. 4231.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में, केन्द्रीय सरकार, मगध ग्राम.ण बैंक के प्रबन्धतन्त्र से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 2, धनबाद के रीषाट को प्रकाशित करता है, जो केन्द्रीय सरकार को 20 नवम्बर, 1986 को प्राप्त हुआ था।

New Delhi, the 11th December, 1986

S.O. 4231.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishing the award of the Central Government Industrial Tribunal, No. 2 Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the Magadh Gramin Bank and their workmen, which was received by the Central Government on the 20th November, 1986.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 163 of 1986

In the matter of industrial disputes under section 10 (1)(d) of the I. D. Act, 1947.

PARTIES :

Employers in relation to the management of Magadh Gramin Bank and their workmen.

APPEARANCES :

On behalf of the workmen : Shri U. N. Sharma, Vice President, All India Regional Rural Bank Employees' Association.

On behalf of the employers : None.

STATE : Bihar

INDUSTRY : Banking

Dated, the 12th November, 1986

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-12011/41/85-D. II (A), dated the 11th April, 1986.

SCHEDULE

1. Whether the action of the management of Magadh Gramin Bank, Gaya in denying Sweepers and Messengers full wages when they are working from 10.00 A.M. to 5.30 P.M. is legal and justified ? If not, to what relief are the concerned workmen entitled ?
2. Whether the action of the management of Magadh Gramin Bank, Gaya in denying H.R.A. to the employees of the offices situated within 8 kms from the periphery of Municipal Area when the same is being paid to the employees working in Gaya is legal and justified ? If not, to what relief are the concerned workmen entitled ?

The case of the workmen is that Magadh Gramin Bank is a scheduled bank established under the Regional Rural Bank Act, 1976 having 150 branches in Gaya, Nawadh, and Aurangabad districts. In each branch of the bank sweepers are working. Messengers are posted at the head office and at those branches which has business of more than 15 lacs. The sweepers are getting wages at the rate of Rs. 60/- per month and the messengers are getting wages @Rs. 10/- per working day. They are not paid wages for Sundays and holidays. The bank is exploiting the sweepers and messen-

gers by paying part time wages and extracting full time work on the basis of the business of the branches of the bank. Their non regularisation and payment of inadequate remuneration is arbitrary and discriminatory. The employees who are performing the work of messengers and sweepers are designated as subordinate staff and are treated as regular employees with regular scale of pay in the other bank whereas the sweepers/messengers doing the same work are not treated as employees in the staff services rules of the Bank. The Sweepers and Messengers who have put in 6 to 9 years of services in the Magadh Gramin Bank are being treated as part-time. The subordinate staff working in the nationalised and commercial bank are treated as regular employees with regular scale of pay but the messengers and sweepers who are doing the same work have not been regularised in their employment and are not getting regular scale of pay. The workmen therefore demanded that the Sweepers and Messengers should be given full wages equal to Grade-IV employees of the State Government. As per service rules of Magadh Gramin Bank the employees are entitled to H.R.A. as applicable to Bihar State H.R.A. rules. Gaya is a B-2 type city as per Bihar State House R.A. rules. According to the said rules House Rent Allowance is payable to the employees of the office situated within 8 km. from the periphery of Gaya but the employees of Magadh Gramin Bank are denied H.R.A. The workmen of Gramin Bank are eligible for H.R.A. @ 7.50% of their Pay. The workmen therefore have prayed that the Bank should pay H.R.A. to the employees of office situated within 8 km. from the periphery of municipal area.

The case of the management is that the sweepers are engaged in the branches of Magadh Gramin Bank for cleaning the branch premises involving 1½ an hour daily job and for this purpose the sweepers are paid @Rs. 60/- per month. The sweepers are not required to stay in branch premises for more than 1½ hours and as such they are not entitled to full pay. The messengers employed in the branches are being paid @Rs. 10/- per day according to the rate prevailing in the State Government Offices at district headquarters. The matter regarding regularisation of daily wages of messengers is under consideration of the Government of India and full wages will be allowed to them only when their services are regularised in accordance with the terms and conditions prescribed by the Government of India. The matter regarding the H.R.A. to employees of branches situated within 8 K.M. from the periphery of municipal area as prevailing in the State Government of Bihar has to be put up with the Board of Directors of Magadh Gramin Bank for considering the payment of H.R.A. as per State Government rules.

The point to be decided in this reference and whether the sweepers and messengers are entitled to full wages by the Management of Magadh Gramin Bank, Gaya when they are working from 10.00 A.M. to 5.30 P.M. and whether the employees of office of Magadh Gramin Bank Gaya situated within 8 K.M. from the periphery of municipal area are entitled to H.R.A. when the same is being paid to the employees working in Gaya.

The workmen examined one witness but the management did not examine any witness and did not take steps in the matter after filling the W.S.

WW-1 is the Vice President of All India Regional Rural Bank Employees Association. He has stated that the management of Magadh Gramin Bank has appointed sweepers and messengers in Magadh Gramin Bank. According to him a sweeper is appointed in the branch of Magadh Gramin Bank where the business of the bank is less than 15 lacs and where the business of the bank is over Rs.15 lacs, a sweeper and messenger is appointed. He has stated that the Branch Bank where a sweeper alone is working has to work for the whole day and he works as sweeper and also as a peon. Thus it will appear from his evidence that the Branch of the Magadh Gramin Bank whose business is less than Rs. 15 lacs appoints a sweeper who works for the whole day and does the work of sweeper as also that of a peon.

MW-11 has stated in the branch which has a sweeper and a messenger, the sweeper does his sweeping job between 10 A.M. and 11 A.M. and thereafter he is off from the duty and as such sweepers are part time workers getting Rs. 60/- per month. He further states that messengers get his wages @ Rs. 10/- per day. According to him a messenger working

in the municipal area of the Bank gets wages for holidays also but the messengers working outside the municipal area do not get the wages for Sunday and other holidays. He has stated that the Government of India has issued a circular dated 8-10-84 to the Chairman of all Regional Rural Bank for the creation of posts of messengers in Regional rural bank and the demand of the union for creation of post of messengers in the regional rural banks in accordance with the said circular. He has stated that the further demand of the workmen is that the daily rated messengers who are working as a whole time messenger should get full wages as other permanent messengers. He has stated that the messengers and the sweepers who are working as full time should get wages/salary equal to the salary which Class IV employees of the State Government are getting.

WW-1 has stated that the employees of Magadh Gramin Bank working within the municipal area of Gaya are getting H.R.A. @7.50 per cent of their basic wages but the employees working outside the municipal area of Gaya do not get any H.R.A. He has stated that Bihar State H.R.A. rules is applicable to the employees of Magadh Gramin Bank and according to Rule 4 of the Bihar State H.R.A. employees whose place of duty falls within the qualifying limit of city are eligible for H.R.A. irrespective of whether his place of residence is within such limit or not. He has stated that the employees of the Gramin Bank are not getting H.R.A. who are outside the periphery of municipal limit and are within 8 k.m. of the periphery of municipal area.

It will appear from the evidence of WW-1 that the sweepers who are working in the Branch of Magadh Gramin Bank whose business is less than 15 lacs is employing a sweeper and that no messengers are employed in such banks. He has further stated that the said sweepers in those branches work as a sweeper and also as a peon and work for the whole day. There is no denial of the said fact by the management and it appears that the sweepers working in the Branches of Magadh Gramin Bank whose business is less than 15 lacs of rupees are employing a sweeper who works for the whole day as such there is no reason that such sweepers should be paid part time wages. As they are working for the whole time they are entitled to full time wages. The demand of the workmen is that such sweepers messengers should get salary equal to the salary which such employees of the Bihar State are getting does not appear to be unjustified. WW-1 has stated that such workmen who are Class IV employees of Bihar State Government get Rs. 350/- per month plus D.A. as admissible from time to time. The management must pay such sweepers-cum-messengers @350/- plus D.A. admissible from time to time for doing full time work.

It will appear from the evidence of WW-1 that the Branches of Magadh Gramin Bank having a business of more than 15 lacs employed part time sweepers and they worked part time from 10.00 A.M. to 11.00 A.M. and thereafter his duties are off and as such this part time sweepers are getting Rs. 60/- per month. These sweepers therefore cannot be entitled to the full wages. In my opinion the action of the management in paying them @Rs. 60/- per month for the part time appears to be justified.

It will appear from the evidence of WW-1 that the messengers working in the branches of Magadh Gramin Bank having business of more than 15 lacs get daily wages @Rs. 10/- per day and that they are whole time workers. He has also stated that the messengers working within the municipal area getting wages for holidays but the messengers working outside the municipal area do not get wages for Sunday and other holidays. As the messengers working in the Banks are whole time workers they are entitled to the full wages. WW-1 has stated that the work being performed by the messengers in Gramin Bank are performed by the Class IV employees of the State Government and are getting Rs. 350/- per month plus D.A. as admissible from time to time and that the messengers of the Gramin Bank doing the same work are entitled to the salary equal to the salary which is being paid by the State Government. The demand of the workmen that the whole time messengers working in Magadh Gramin Bank should get their salary @Rs. 350/- per month along with the D.A. as admissible from time to time appears to be quite justified and the management must pay accordingly.

The Bihar State employees (H.R.A.) Rules, 1980 provides 7.50 per cent of pay subject to maximum of Rs. 220/- per mensem as House Rent for C Class City/Town. Gaya has been placed in the category of C class city and as such it will appear from the evidence of WW-1 that employees of Magadh Gramin Bank working within the municipal area of Gaya are getting the H.R.A. at the said rate. The workmen demand that the employees of Magadh Gramin Bank working outside the municipal area of Gaya do not get any H.R.A. He has stated that according to the Bihar State H.R.A. rules 4(b) employees whose place of duty is within the qualifying limit of city are eligible for H.R.A. irrespective whether his place of residence is within such limit or not. It will appear that Rule 4(b) is applicable only at places which are within 8 k.m. of municipal limit of classified city. Thus the claim of the employees of Magadh Gramin Bank for H.R.A. who are working within the periphery of 8 k.m. of municipal limit are also entitled to the H.R.A. WW-1 has stated that the Bihar State employees H.R.A. rules is applicable to the employees of Magadh Gramin Bank and as such it appears that the action of the management in denying H.R. allowance to the employees of the offices situated within 8 k.m. of municipal area is not justified and that those employees also must get House Rent Allowance as is being paid to other employees who are working within the municipal area. The award is passed accordingly.

I. N. SINHA, Presiding Officer
[No. I-12011/41/85-D. II (A)]

का.अ. 4232.--औद्योगिक विवाद अधिनियम, 1947
(1947 का 14) क. धारा 17 के अनुसरण में, केन्द्रीय सरकार,
पारादीप पतन न्यास, पारादीप के प्रबन्धतंत्र से सम्बद्ध
नियंत्रकों और उनके कमकारों के बीच, अनुबन्ध में निदिष्ट
औद्योगिक विवाद में लड़कों के पंचाट को प्रकाशित करती
है, जो केन्द्रीय सरकार को 24-11-1986 को प्राप्त हुआ
था।

S.O. 4232.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the award of the Arbitrators as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Paradip Port Trust and their workmen which was received by the Central Government on the 24th November, 1986.

In the matter of Arbitration under Section 10-A of the Industrial Dispute Act, 1947. Relating to Rates of wages to Cleaning Gang Cargo Handling Female Workers and 4 other issues between Paradeep Port Trust, Paradeep, Orissa, and Paradeep Port & Dock Mazdoor Union, Paradeep Port, Orissa.

Reference No. 9/85

Before Shri P. D. Shenoy and Shri H. G. Bhawe, Joint Arbitrators.

For the Employers (Paradeep Port Trust)—1. Shri R. K. Mishra Secretary 2. Shri S. K. Misra Asstt. T. M. 3. Shri S. B. Nanda Legal Consultant.

For Workmen 1. (Paradeep Port & Dock Mazdoor Union)—1. Shri G. S. Janna Presiden 2. Shri A. C. Nag Vice President 3. Shri Dulal Nath Vice President 4. Shri C. K. Mahapatra Jt. Secretary 5. Shri Babaji Ch. Swain Organ. Secy. 6. Shri A. K. Swain Organising Secy. 1. Shri Brajabanohu Paltasing Organising Secy.

2. (Utkal Port & Dock Workers Union)—1. Shri Pravat Samantaray President 2. Shri J. Sahoo Exec. Body Member.

AWARD

Under an agreement between the management of Paradeep Port Trust, Paradeep Port, Orissa and their workmen represented by the Paradeep Port & Dock Mazdoor Union. Paradeep Port signed on 28-1-85 in terms of Sec. 10-A of the I.D.

Act, 1947 the dispute between them regarding rates of wages to cleaning gang cargo handling female workers, quantum of house rent allowance to listed workers and 3 other demands were referred for our joint arbitration. The Govt. of India, Ministry of Labour in accordance with the provisions of sub-section (3) of Section 10-A of I.D. Act, 1947 ordered publication of the said agreement vide order No. L-38013/1/85-D.IV(A) dated 26-3-1985.

2. The specific matters in dispute as referred for our arbitration were worded as follows :—

- (i) Rates of wages to cleaning gang cargo handling female workers.
- (ii) Quantum of house rent allowance to listed workers.
- (iii) Method of working out daily wages to listed workers other than signalmen and winchmen.
- (iv) Payment of attendance allowance to listed cargo handling workers.
- (v) Introduction of Brass token system/individual booking slips.

3. The parties to the dispute were requested vide letter dated 11-4-85 to file their written statement of the case in triplicate within 15 days endorsing the copy of the same to the opposite party simultaneously. The parties requested for extension of time for filing their written statement which was granted upto 15th May, 1985 vide our letter dated 6-5-85. The written statement of the P.P.&D.M.U. which was despatched on 14-5-85 was received on 18-5-85. Similarly the written statement of the employers which was despatched on 31st May, 1985 was received on 6-6-85.

4. Another union namely, Utkal Port & Dock Workers' Union vide their communication dated 21-6-85 approached the Ministry of Labour and Chief Labour Commissioner (C) requesting for being impleaded as a necessary party in the instant arbitration case as they also represented substantial number of involved workmen covered in the arbitration agreement. The Ministry of Labour directed this union to prefer application before the arbitrators for being an opportunity for presenting its case, simultaneously advising the arbitrators to give an opportunity to this union for presenting their case in the proceedings.

5. Notices were then issued on 5-8-85 to the parties to the arbitration agreement to attend the hearing on 20-8-85 at Bhubaneswar. The Utkal Port & Dock Workers' Union was also directed to appear before us to consider their request for being impleaded in the instant case. Accordingly, the first hearing took place on 20-8-85 at Bhubaneswar. The Utkal Port & Dock Workers' Union appeared and put forth their arguments to substantiate their case for being given an opportunity to present its case on the basis of facts and figures and written and oral evidence. As the Arbitrators were convinced about the interest of this union in the instant case, they were allowed to present their case. During the hearing the Paradeep Port Trust (hereinafter referred to as the 'employers') and Paradeep Port & Dock Mazdoor Union (hereinafter referred to as P.P.D.M.U.) filed a communication dated 20-8-85 extending period for giving the award upto 28-2-86. This was taken on record. The P.P.D.M.U. filed a rejoinder to the employer's written statement and the employers prayed for 15 days time to file their rejoinder to the Union's written statement dated 14-5-85 and rejoinder dated 20-5-85. After stipulating the period within which this was to be done, the hearing was adjourned. Subsequently, the employers and the two unions were informed telegraphically about the next meeting of the case on 3-12-85 at New Delhi. All the 3 parties attended the hearing on 3-12-85. The Utkal Port & Dock Workers' Union (hereinafter referred to as U.P.D.W.U.) submitted their statement of claims, copies of which were passed on to two other parties by arbitrators. The P.P.D.M.U. requested the arbitrators for hearing the case separately and not in the presence of U.P.D.W.U. The employers, however, were inclined to have the hearing in the presence of both the unions. The parties were requested to present their view points in writing before 31-12-85. The parties requested for time to file documents before the arbitrators. The time was allowed and the next hearing was fixed for 8-1-86 at Bhubaneswar. On that day all the 3 parties attended. The P.P.D.M.U. filed its addendum

to its earlier written statement. The copies of the documents were received by the arbitrators on 2-1-86 and it was ensured that the other parties have received the same. The U.P.D.W.U. filed additional written statement before the arbitrators with copies to the other parties. Both the unions confirmed that they had no further documents to file. The employers wanted time to study the additional written statement and documents furnished by both the unions for which the unions had no objection. The arbitrators directed the employers to file any further statement or documents within one month with the copies to the other parties. In view of the stage of the arbitration, the parties agreed to give time upto 30-6-86 to the arbitrators to give the award. Hearing was thereafter adjourned, next hearing was to be held at Calcutta on the date to be notified. Thereafter the employers submitted by post on 22-2-86 their rejoinder to the additional written statement of the U.P.D.W.U. Subsequent hearing was held at Calcutta on 16th & 17th April, 1986. All the three parties attended. On 16-4-86 as the parties had no more statement/documents to be filed or evidence to be produced, the arguments commenced. These were resumed and continued on 17-4-86. On 17-4-86 the employers, however, with the permission of the arbitrators filed copies of two documents in support of their arguments. The employers as well as the two unions gave a further written communication to the arbitrators authorising them to give award on or before 31-10-86. This period has been further extended jointly by the parties on 30-10-86 upto 15-12-86. The hearing was adjourned for being fixed at New Delhi. The next hearing was fixed on 3-6-86 at New Delhi when only the representative of P.P.D.M.U. attended and the employers requested for adjournment vide their telegram dated 30-5-86. There was no intimation whatsoever from U.P.D.W. for hearing. The hearing was, therefore, adjourned to 28-7-86 at New Delhi. Notices to this effect were released on 6-6-86.

6. The case was taken up for final hearing on 28-7-86. All the three parties were present. Arguments continued on 30th July, 86. After two days of continuous hearing of the arguments of the parties, the same were concluded on 30-7-86. The parties were given liberty to file their written arguments by 31-8-86.

7. As mentioned in para 2 above, in all five issues are referred to us for arbitration. These are now being examined hereinafter serially in the light of the written statements, rejoinders, documents and pleadings-Oral and written.

8. Item No. II-Rates of wages to cleaning gang female workers.

8.1 The unions have demanded that the female gang of cleaning workers numbering about 46, who were registered as listed workers along with other CHW of P. Port as per the P. Port CHW's (Regulation of Employees) Scheme, 1979 and were changed to casual workers later on by the management, be treated as listed CHM and be paid the same rates of wages as payable to other listed workers (Mazdoors) from 16-2-80 and also the revised rates of wages later on from time to time. The union's argument is the CH female workers used to work in same place as the other listed workers. Prior to the implementation of CH scheme from 16-2-1980, the 46 CH female workers were working in transport gangs in P. Port. They were being paid at a daily rate of Rs. 10 by the stevedores and handling contractors as was paid to other male Mazdoors engaged by them. After the introduction of CH Scheme, when the names of lady workers were found in the same list, the management decided to form a separate cleaning gang with a view to segregating them from the male Mazdoors and also from the point of view of the safety and security hazards. Their status as mazdoor was not disturbed for the reasons of their inclusion in female cleaning gang. They have further stated that being fully satisfied that these female workers are the workers covered in 1979 scheme, the Chairman vide notification dated 5-1-80 declared these female workers as listed workers along with other CHWs. Further the traffic manager by a circular dated 18-1-80 advised these female workers to appear for physical identification at the Administrative Building on 22-1-80. The management not only listed these female mazdoors but also made payment equal to that of main listed workers w.e.f 16-2-80 @ 17.66. They were issued similar job cards as issued to other male workers. It is alleged by the unions

that the management unilaterally changed the status of these female workers from 17-6-80 without observing the provisions of Section 9-A of the I.D. Act. They say that even now female workers have been classified by the management as mazdoor and the wage slips issued to them still describe them either as mazdoor or female mazdoor. Thus, according to them in practice and procedure the management hardly maintains any distinction between these male and female workers in terms of duties and responsibilities, place of work, nature of work. The earlier notification issued by the Chairman on 5-1-80 have not yet been revoked by the management. Hence they claim that the female workers should be paid the same wages as the other listed male mazdoors in CH work are paid. The unions also assert that their work is not only confined to cleaning and sweeping but they do the collection of left overs of cargoes and refilling them in bags in the sets. They also are given the shift except the night duties which is legally prohibited. The management defence is that both historically and functionally these female workers were never equated and can never be equated with CH workers. The creation of separate cleaning gang of these female workers was only contemporaneous with 1979 scheme but by nature, extent and area of engagement they are different from the CHWs, having no exchangeability in jobs. They assert that such female workers used to be engaged since inception of the Port by the stevedores within the prohibited area for sweeping work only. According to them the P. Port CHW Scheme 1979 classified the CHWs into 4 categories under Rule 7 thereof. This cleaning gang does not find place therein. Though unions' contention is that they would come within the ambit of sub-rule IV of Rule 80 which describes the word as "collection of sweeping" the management argue that "sweeping" and "collection" of sweeping are not one and the same operation. As regards the unions' contention of payment of higher rate of wages for a short period and then the withdrawal therefrom, the management say that the higher rate paid to these workers was purely by bonafide mistake and it was only for one month. Such a mistaken action for a short duration would not make a service condition so as to bring it within the ambit of section 9-A of the ID Act. They also contest the unions' claim for equal pay for equal work on the ground that female workers perform only sweeping work whereas the other mazdoors have to do operations directly connected with CHWs. There is no interchangeability of two sets of workers nor do the female workers have to work in three shifts. Moreover, the CHMs work for 10-12 days in a month while the female cleaning workers usually work for full month. They have also raised law points that reference is on the rates of wages, hence other conditions of service would not fall for consideration, nor the decision of the arbitrators can be given from a retrospective date, as the matter is being dealt with under Section 10-A of the ID Act and not under Section 10(4) of the ID Act. They also put forth region-cum-industry argument to the effect that a decision of rates of wages of the cleaning gang female workers needs an enquiry of wages in comparable ports in the country. No material having been placed before the arbitrators by the union, to revise the rates in isolated consideration, may have a disturbing effect on other similar ports.

8.2 We shall first of all discuss the law points raised by the Management. We find substance in the Management's arguments that the reference being on wage rates, the other conditions of service such as whether the concerned female workers should be listed or unlisted workers, do not fall within the term of reference to be disposed of by us. However, we do not agree with the Management's contention that the Arbitrator's decision can be prospective and not from retrospective date. The term of reference to which both the parties have voluntarily agreed to refer to us for our arbitration does not suggest any restriction in giving any relief from retrospective date if justice or circumstances of the case so demand. Thus the limited question to be decided by us is as to what should be the wage rates of the female cleaning workers in the Paradeen port and if the question so arises, then from what date should such rates be payable. Hence, our determination of the issue will be confined to a restrictive area of determination of wage rates of the female cleaning workers.

8.3 In the above context of the determination of wage rates, the main question is the job contents and its compari-

son with other male cargo handling mazdoor's job contents. Unions' contention as to the nomenclature of the designation of the female workers being same as of other cargo handling workers and that their place of work being the same and historical background being the same, would not be of much relevance in the determination of the instant issue. We have to go by the actual job contents and job performance and not by designation, which are sometimes given in a cryptic and casual manner, hence may be patently deceptive. Even then we see that in the terms of reference, they have been called as cleaning gang female workers. It denotes that in contradistinction to other general work of cargo handling these female workers are supposed to do mainly cleaning or sweeping work in the port area. During hearing, the parties have come out with different versions of job performance by these female workers. The Management maintains that the work is confined to cleaning and sweeping whereas the Unions' assert that they have been doing the work of collecting the spread out cargo in bags and stitching the same, collect the left out bags in the sheds and shore, statching the same at some point and that they have also to attend to the loading of bags in the trucks. To our mind, the collection of left out bags and small left overs and stacking the same at one point appears to be worth incidental to sweeping and cleaning. But collection of spread-over cargoes, filling them in bags, stitching them or loading them, at trucks should fall outside the scope of sweeping and cleaning. The management has denied that this specific job is also done by these female workers. However, without going into the controversy of actual practice in the past we feel that Management would not be entitled to take the work of "collection of sweeping" work as defined under Rule 18(iv) (F) of the Scheme, 1979. Thus looking to the entire gamut of their nature of work of these female cleaning workers we come to the conclusion that essentially the nature of the work of cleaning and sweeping is different from that of other CHW and that both are not exchangeable, hence strict parity in wages with that of other CHW is ruled out.

8.4 Now coming to the main issue of determination of wage rates for these female workers, we go to the background of wage rates paid to them in the past.

8.5 These cleaning gang workers prior to their being directly employed by the Port Trust had been working with the Stevedores being employed and paid by them with the manner of employer-employee relationship with the Port Trust. Immediately before they were brought under the employment of the Port Trust, they used to get a daily rate of wage of Rs. 10. As earlier stated, inadvertently and under mistaken impression they were paid at a higher rate of Rs. 17.56 (not Rs. 17.65 as contended by the Union) from 16-2-80 to 15-3-80, but never thereafter. At that time the wage rate of other cleaning workers in the Port Trust was Rs. 6.50 per day. Since these cleaning Gang Workers involved in the dispute had been getting with their respective stevedores, a wage rate of Rs. 10 per day the Traffic Manager of the Port Trust initiated a note on 4-6-80 for approval of the Chairman recommending a rate of Rs. 10 per day as wages to be paid to these workers so that their previously earned rate of wages was not adversely affected. Eventually the recommendation of the Traffic Manager was approved by the Chairman on 27-5-80. But since there was no deployment of these cleaning gang workers from 16-3-80 till 20-12-80, only on their engagement thereafter, they were paid at the rate of Rs. 10 per day. The rate was revised to Rs. 10.50 per day from 1-7-82 and to Rs. 13.00 from 1-1-84.

8.6 There is minor variation in the Union's version that the rate initially paid was Rs. 17.66 instead of Rs. 17.56. The Union has asserted that initial payment of Rs. 17.66 forms part of service condition which cannot be changed without undergoing the formality of Section 9A of I.D. Act. Looking to the circumstances of the case and the plea of bonafide mistake taken by the Management and a short duration during which this wage was paid, we are of the view that this does not form a part of service condition requiring observance of the provisions of Section 9-A of I.D. Act. It is seen that the rates of wages had been revised from time to time the latest revision having been made, from 1-1-84 raising the rates to 13.00 per day.

8.7 It is evident that the wage rates of these female workers have been revised by the Management at their sweet will and there has been no co-relation with the general revision in the wage rates of the majority of the listed cargo handling workers in the port. It is admitted fact that the wage rates of the cargo handling workers have been revised in 1981 vide Settlement dated 4-1-81 and again revised in 1984 vide Settlement dated 11-4-84. It would not be at all justified in keeping the female workers isolated from the main-stream of the other workers of the port. Atleast whenever the wage rates have been revised of the other workers in general these female workers should also have some benefit of the general revision so that they may not be treated as absolutely isolated from the main-stream. In this context, we feel it would be justified that the wage rate of the female cleaning workers, by taking Rs. 13.00 as the base which was paid to them from 1-1-1984, should be revised in the same ratio as has been revised in the case of the Cargo handling mazdoors vide agreement dated 11-4-84 subject to the minimum of the rates already being paid to these female workers. This revision of rates shall come into effect from 1-1-85 the first day of the month in which the instant arbitration agreement was signed. The wages shall be as defined under the Payment of Wages Act, 1936. We, therefore, give our Award on this issue accordingly.

9. Item No. II—Quantum of HRA to listed workers.

9.1 The unions' case is that the CHW of the Paradeep Port are entitled to HRA @10 per cent of pay subject to a minimum of Rs. 50 per month irrespective of their actual earnings in a month as provided in para 12(1) of the wage revision agreement dated 11-4-84 between the 4 National Federations of P&D workers and the Ministry of Shipping and Transport, whereas the management is paying on prorata basis of wages payable without adhering to the minimum guaranteed HRA of Rs. 50 per month.

9.2 The workmen's grievance is that due to restrictive practice adopted by the management, they are not above to get their minimum HRA of Rs. 50 whereas they have to pay house rent to the landlord at the full rate irrespective of their earnings. It is common argument of both the unions that the workers who have not been provided with housing accommodation by the management, are entitled to a minimum HRA of Rs. 50 per month as stipulated in clause 12(1) of the All India Wages agreement dated 11-4-84. It is also commonly pleaded that those listed workers who have been provided with quarters by the management have to pay full rent even for the days they remain absent, then how can the management resort to prorata basis while paying HRA to those workers who have not been allotted housing accommodation.

9.3 According to PPDMU to persuade the true intention of the expression "subject to a minimum of Rs. 50" in clause 12(1) of the said settlement, the entire settlement has to be taken into context with particular reference to clauses 5, 6 and 7. The clause 5 deals with fixed DA and it has been provided that upto the basic pay of Rs. 619 the quantum of FDA would be 212.40. It implies that FDA cannot be paid below Rs. 212.40. For this reason no special obligation by making a stipulation of minimum amount of FDA has been made in this clause. For the same reason in clause 6 dealing with VDA and in clause 7 dealing with special DA, no expression was added for protection of minimum amount payable under these clauses as has been done in clause 12(1) relating to HRA. Parties to the settlement were fully aware that the payment of HRA on percentage basis in respect of listed categories of workman may result in negligible compensation and as such they protected these workmen with a minimum amount of compensation in the matter of HRA. They have further argued that a reading of the specific matter in the dispute as agreed upon in the arbitration agreement dated 28-1-85 to the effect "quantum of HRA to the listed workers", the word quantum means fixed amount. Hence the issue is confined to the determination of fixed amount of HRA because if it is paid on prorata basis, it will never be a fixed quantum.

9.4 The management's defence is that the terms of the wage revision settlement dated 11-4-84 were subject to the approval of Government of India vide clause 27 thereof and any disputes with regard to interpretation or implementation are to be resolved by the self contained machinery provided for in clause 28 thereof, that the Government of India on a reference of the present dispute had advised against any change in the present practice in view of its All India implications. Their further argument is that HRA is a wage component and if wage is fixed on daily basis the HRA should also be paid on daily basis. In other words since the Cargo Handling Workers are not monthly rated, the HRA cannot be claimed to be paid on monthly rate without working proportionately.

9.5 The management have also raised the legal issue that settlement is on All India basis, hence only Section 10 (I-A) of the I.D. Act can be invoked in such a situation and not Section 10-A, that during currency of settlement no dispute can be raised on a matter covered by settlement and in view of the specific provisions in section 36-A of the I.D. Act, recourse to Section 10-A will be impliedly barred.

9.6 We have gone through the arguments of both parties. We are not inclined to agree with the managements' arguments on law point. Once the management agree to refer a particular issue for arbitration under Section 10-A of the I.D. Act, they are estopped from taking the plea that there can be in law no Industrial Dispute or a matter settled or that the provisions of clauses 27 and 28 of the settlement dated 11-4-84 relating to the powers to the Central Government to approve the terms of settlement and provision of a forum of resolution of dispute have an over-riding effect in ousting the jurisdictions of the arbitrators. We also do not agree with the managements' argument that the present dispute arising out of the settlement dated 11-4-84 can only be a subject matter of Section 36-A of the I.D. Act and that the issue is incompetent of adjudication under Section 10-A of the I.D. Act. Provisions of Section 36-A are not applicable to this settlement dated 11-4-84 because the settlement in question arrived at between the 4 Federations of P&D workers and the Ministry of Shipping and Transport is not strictly speaking a settlement under the I.D. Act.

9.7 On going through the merit of the case we see that the claim for the minimum of Rs. 50 per month HRA admittedly arises from the wage revision settlement dated 11-4-84. We do not find any reason to give any other meaning to the expression "subject to a minimum of Rs. 50 per month" appearing in clause 12(1) of the settlement, then to mean them the HRA should go below the minimum of Rs. 50 per month. It is a known fact that House Rent is paid to the landlord every month without any variation in its quantum irrespective of the fact whether the worker has worked for all the days or not or whether his earning in the month has been high or low. In the present situation of the scarcity of houses and high rate of rent for the houses in industrial areas, granting minimum of Rs. 50 as HRA to the workers does not want any compromise except in a situation where a worker remains absent unauthorisedly, because if a worker chooses to remain absent without authority it means he chooses to not only forgo his wages for that day but also the other benefits in the circumstances. We hold that the listed CHW of P. Port are entitled to HRA @10 per cent of pay, but it shall not go below Rs. 50 per month w.e.f. 1-4-84, irrespective of their actual earnings, with a condition that no HRA shall be payable to the workman for the days of his unauthorised absence. This condition is necessary with a view to discouraging unauthorised absenteeism. We therefore, give our award on this issue accordingly.

10. Item No. III.—Method of working out daily wages to listed workers other than signal men and winchmen.

10.1 Both the unions have pleaded that the monthly rates of wages of the listed CHW, other than the signal men and winchmen, should be divided by 26, instead of 30, for working out their daily wages. The arguments advanced by both the unions are almost identical, hence being dealt with jointly. The unions' argument is that in the case of signalmen and winchmen the daily wage is derived by dividing by 26 whereas in the case of other listed workers the

division is made by 30. This leads to unreasonable discrimination as all of them work together and under the same working conditions. According to them the concerned listed workers in the instant dispute—were listed and brought under the Paradeep Port CHW (regulation of employment) Scheme, 1979 from the same date alongwith winchmen and signalmen. The said scheme nowhere provided for such differential treatment in working out the daily wages of the listed workers. Thus leading to substantial monetary loss to workmen every day.

10.2 Their next line of argument is that in other ports division is made by 26 to arrive at daily rate. They have cited the instances of Calcutta Port and Bombay Port where daily wages of categories of workmen are worked out by dividing their monthly basic wages by 26. In this connection to PPD MU has furnished a copy of the relevant portion of the report of an enquiry group wherein it has been stated that the daily wages of Dock workers at Calcutta have been worked out by dividing monthly wages by 26. The unions have further relied upon the recommendations of the Wage Board for port and Dock workers (1969) and have cited the relevant para to show that the Wage Board had recommended that the daily wages of workers should be determined by dividing the basic pay by 26 and other allowance by 30. This recommendation of the Wage Board was accepted by the Govt. of India and incorporated in the settlement entered in 1971 with the Federation of Port & Dock Workers. The unions further argue that on the principles of natural justice, all the listed workers of Paradeep Port should be treated in equal manner in the matter of emoluments and service conditions. It has also been stated that in the case of *Sri Digvijay Woollen Mills Ltd. vs M.P. Buch*, the principle of dividing the monthly wages by 26 was upheld by the Supreme Court.

10.3 The management of the Paradeep Port Trust have countered the above contentions of the unions. They deny the charge of unreasonable discriminations between the signalmen & winchmen on one hand and the other listed CHW on the other hand. They say that both the group of workers have different historical background. The signalmen & winchmen were initially under the stevedores and in 1977 there was an agreement with PP workers Unions, wherein it was agreed that the basic pay of signalmen and winchmen should be divided whereas their DA and VDA be divided by 30 and that it would apply only to these two categories of workers. On taking over all these workmen from Feb. 1980 by the Port Trust the benefits which were available to the workmen under stevedores were continued to be honoured. Thus the two groups were distinct in origin having different conditions of service relating to division of basic pay by 26. Since they are not similarly circumstance the question of equating the two sets of workmen would not arise. The management's further argue that out of total strength of 1503 listed workers, the signalmen & winchmen number only 125 where a very small group gets a benefit, the larger group cannot take the plea of unreasonable discrimination. They also state that a dispute had been raised earlier on this score and the Govt. has refused reference on 11-1-84 and their Ministry also clarified that the division by 30 should continue to be followed and that the matter having All India implication should not be disturbed. Countering the unions' argument based on the decision given by the Supreme Court in *Sri Digvijay Woollen Mills case* (11-11-1980) the management say that the ratio in that case has no relevance in the instant issue because that related to the payment of Gratuity Act and the same cannot be extended to the present dispute in as much as each Act has its own code and objective. They also repeated the earlier argument that issue being an All India one, section 10(1-A) of the ID Act governs the present situation and not section 10-A.

10.4 We do not agree with the contention of the management that the issue involving All India importance is not governed by section 10-A of the I.D. Act. The management having voluntarily agreed for arbitration under section 10-A of the ID Act, are now estopped from challenging the jurisdiction or the applicability of Section 10-A. We are also not impressed by the argument of the union based on discrimination and violation of natural justice. Their argument would have held some ground had either the minority of workmen were being adversely discriminated against the majority of the workmen or had both the sets of workmen had the same genesis or

background. Neither of these two is the situation in case of listed CHW. Therefore the question that remains to be examined is whether on merits of the case the monthly basic wages be divided by 26 or 30. There is no doubt that the standard practice in the cases of derivation of daily wages from the monthly wage is to divide by 26 because of the accepted principle that workers should also get wages for the rest days. In other words workers should get 30 days' wages by working for 26 days. In the case of Port & Dock also this principle has been separated by the recommendations of the Wage Board for the Ports & Docks 1966 which recommends that the basic wages should be divided by 26 and allowance be divided by 30. This recommendation has been accepted by the management and that such a system is in vogue in some other ports also like Bombay and Calcutta. In this regard it would not be irrational to draw inference from the Supreme Court judgment in *Sri Digvijay Woollen Mills case* of dividing the monthly wage by 26 though under different context and different Act. It is also an accepted fact that in the case of Signalmen and the winchmen the basic pay is divided by 26 and allowances are divided by 30. Hence we feel that in the circumstances of the case the derivation of daily wages in r/o all the listed CHW should be on the basis of dividing the basic wages by 26 and allowances by 30. This system will bring uniformity among listed CHW in paradeep Port. However, this system of dividing basic wages by 26 shall be introduced from 1-1-85 the month during which the parties had referred the issue for our arbitration. We are not inclined to rake up the past and make the matters complicated by making the award on this issue more retrospective than 1-1-85. Hence we give our award on this issue accordingly.

11. Item No. IV : Payment of Attendance Allowance to listed Cargo Handling Workers

11.1 Both the Unions namely, P.P.D.M.U. and U.P.D.U. have demanded attendance allowance to all the listed Cargo Handling Workers @ 1/60th of their monthly wages w.e.f. February, 1980 onwards. It may be mentioned that as admitted by the parties, the workmen are being paid attendance by allowance @ Rs. 7.50 per day w.e.f. 1-10-1984. Thus the area of dispute between the management and workmen is confined to the rate of attendance allowance payable to these workmen and date of its effect. The contentions of both the unions are similar, hence being dealt with here jointly. Their main argument is that in terms of para 8.24 of wage revision committee for Port and Dock, the workers were to be paid attendance allowance @ 1/60th of the monthly wages. This WRC Rs. recommendation has been brought into force w.e.f. 14-7-1977. On that particular date i.e. 14-7-1977 the concerned workmen in the dispute were not the listed workers, hence the question of payment of attendance allowance at that stage did not arise. These workers were later on listed under Paradeep Port Cargo Handling Workers (Regulation of Employment) Scheme, 1979 w.e.f. 16-2-1980. According to the unions as soon as these workers became listed workers w.e.f. 16-2-80 they automatically became entitled to the benefits of attendance allowance contemplated in the WRC. Thus, according to them the listed Cargo Handling Workers are entitled to attendance allowance w.e.f. 16-2-80 @ 1/60th of their wages instead of the existing rate of Rs. 7.50 per day being paid w.e.f. 1-10-84.

11.2 They have also based their claim on the legal provisions on lay-off in terms of section 25-C. They contended that in terms of section 25-C of the I.D. Act the workers who are not provided with work, though present at the work spot are entitled to get 50 per cent of the daily wages which comes to 1/60th of the monthly wages.

11.3 The management of the PPT deny the contentions of the unions' argument that the Cargo Handling Workers were brought under the Paradeep Port CHW (Regulations of Employment) Scheme only from 16-2-1980 and were not automatically entitled to the A.A. contemplated in the WRC 1977 which was meant for the then existing unlisted workers. They further argue that existing payment of A.A. to them @ of Rs. 7.50 since 1-10-1984 is on the basis of practice in Tuticorin Port and the same was approved by the Government of India. Contesting the unions' arguments with regard to the provisions of Section 25-C of the ID

Act relating to lay-off compensation @50 per cent of wages, the management contended that taking into account the package system of payment of Minimum guaranteed wages at full rates for 20 days and payment of AA at the existing rate for balance days, there is an embodied provision of paying a total higher remuneration for every month than the earnings legally due to a workman. According to them the package deal of payment of both MG wages and AA which is in practice from 1-10-84 inspite of the low number of actual working days, cannot be disturbed in a piecemeal way, unless the whole system is reviewed. The management also questioned the admissibility of claim from 1-2-80 as being beyond the scope of reference and that the award in this regard can only be prospective.

11.4 We are not inclined to agree with the management's argument that claim from 1-2-80 is beyond the scope of reference and award in this regard can only be prospective. The term of reference does not restrict the claim from retrospective date and the relief, if awarded can be granted even from retrospective date. Without going into the details of the argument, the very fact that he listed CHW in PP are being paid AA, though at a disputed rate, goes to establish at least by the action of the management, that the workman in question have a justification to get payment of AA. The question is whether the existing practice of payment of AA @ of Rs. 7.50 per day in vogue since 1-10-84 is justified and should continue undisturbed or it should be made payable w.e.f. 1-2-80 and at a higher rate of 1/60th of wages as claimed by the unions. Thus we have to determine the rate and the date of payment of AA.

11.5 we are not inclined to accede at least with the unions' claim for payment of AA from 1-2-80 for which the unions should have come forward at that very stage instead of acquiring their claim for about five years and then all of a sudden coming out with a demand by raising the instant dispute. Moreover, the concerned workmen were not entitled to AA. When the WRC's recommendations came into effect from 14-7-1977 as they were not listed workers, their subsequently becoming listed workers from 16-2-80 which was not within the contemplation of the WRC, does not ipso facto bring them within the fold of the WRC's recommendations. By the same very logic, we do not consider the validity of unions' demand for 1/60th of the wage as AA flowing from the WRC recommendation. However, we are also not convinced of the justification of the management paying AA from 1-10-84 when the Tuticorin Port, where from they imported the practice of payment of AA @Rs. 7.50 per day to listed CHW in their port, had introduced the payment earlier than 1-10-84, thus causing discrepancy and creating a feeling of discrimination between similar type of workmen in the two ports. This is an admitted fact that AA @ 7.50 per day was allowed to the concerned workmen in Paradeep Port on the basis of the practice obtaining in Tuticorin Port. We, therefore, feel that the ends of justice would be met, if the listed CHW at Paradeep Port are paid AA at the existing rate of Rs. 7.50 per attendance from the date since when the Tuticorin Port started payment of AA to such category of workman. On our personal investigation we have come to know that in Tuticorin Port the payment of AA was introduced from 1-9-1983. We, therefore, give our award on this issue that the listed CCHW be paid AA Rs. 7.50 per day with retrospective effect from 1-9-1983.

12. Item No. V : Introduction of Brass Token System

12.1 The contention of the P.P.D.M.U. is that action of the Management in introducing Brass Token System from 28-9-84 in addition to the Identity Card for permitting entrance of the Clearing and Forwarding Workers in the Port was arbitrary and designed to stop entry of legitimate workers. The P.P.D.W.U. has not contested this issue.

12.2 The management of the Paradeep Port Trust challenges the validity of the Union's demand against introduction of Brass Token System, both on merits as well as on jurisdiction of the arbitrators. According to the Port Management there is no master servant relationship between the Port Management and the unlisted clearing and forwarding workers, hence there cannot exist an industrial Dispute between them.

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between them, so as to be dealt with by the arbitrators under the provisions of the Industrial Disputes Act. The Management in support of their action on merits of introduction of Brass Token System contend that their action has the statutory backing of Rule 81 (2) of the Paradeep Port Rules, 1966 and regulation 4 of Paradeep Port issue of permit (Regulation of entry) into port area order 1975 which empowers the Management to introduce permit or token for regulating entry into prohibited area. In this connection it is also pleaded that the issue does not relate to the condition of service under Section 9-A read with Schedule IV of the I.D. Act. Their main contention is that the purpose behind the introduction of Brass Token System is purely to ensure security and maintain Law and Order in the prohibited areas. Moreover, if this Union succeeds in quashing the Brass Token System in respect of the C&F workers, it will have adverse effect on the cargo handling workers who are already governed by the Brass Token System.

12.3 The P.P.D.M.U. in their counter written statements have denied the arguments of the Management. According to them the Management is estopped from denying and challenging the jurisdiction of the arbitrators in r/o an issue which has been jointly referred by the Management and the Union to the Arbitrators for arbitration. Once the parties have sent the arbitration agreement on 28-1-85, the Management has accepted this issue as an I.D. in their Industry. The Union further argues that the Management's contention that their action has statutory backing is not tenable because the statutory provisions have been in existence since 1966. But the Management never exercised this power in r/o the C&F Workers till 28-9-85 when these workers had given a threat of strike. Rather the management which used to issue daily permit to such workers later switched over to issuing permits for 3 months as perhaps the management had no complaints against the behaviour of these workmen. Later on the management introduced Identity Cards having validity for a couple of years. Hence according to them it is not the security reasons which has prompted the management to introduce Brass Token System. They further argue that with the construction of perimeter wall and check gates, the job of the security guards was made easier in getting the outsiders away and it would be surprising how the introduction of Brass Token System would reduce law and order problems because if the workmen intend to assault and intimidate the port officials, they can do so even under the Brass Token System. The security arrangements are meant to check the pilferage of cargoes, but the management has not been able to substantiate as to how the Brass Token System will help reducing pilferage.

12.4 The Union rather challenges the wisdom of introducing Brass Token System saying that tokens may be easily duplicated in the market and be misused to the detriment of security. They further stated that such a system is not in vogue in any port in India except in Paradeep Port and that too confined only to Cargo handling workers. It is also apprehended by the unions that this will cause lot of inconvenience and wastage of time to the workers because they are to deposit the Brass Tokens while entering the Port Premises, they will not be in a position to come out of the Port premises to take their day meals even during recess hours.

12.5 We have considered the view points of both the parties. It may be mentioned at this stage that so far as these C&F workers in Paradeep Port are concerned, the Brass Token System was introduced abruptly first time from 28-9-85. Immediately the workmen protested before the Chief Labour Commissioner (C) and on his intervention the management did not proceed further and kept their order of Brass Token System in abeyance and the existing systems of Identity Card continues. We are not convinced with the contention of the management that the arbitrators do not have jurisdiction to arbitrate upon this issue of introduction of Brass Token System. Once they have jointly signed an agreement (arbitration under Sec. 10-A of the I.D. Act) putting this issue as an issue of dispute to be decided by the arbitrators, now at this stage the management is estopped from taking the reverse plea of non-jurisdiction.

However we do not question the authority of the management statutory as well as administrative to introduce Brass Token System or any suitable system in the interest of security. But we would certainly go into the question as to whether in the circumstances of the case the management is justified in all of a sudden introducing Brass Token System in respect of the C&F workers.

12.6 Such a system is not in vogue in any other Port in the country, although the problem of security is a common denominator in all the ports. Moreover, these workers were never subjected to Brass Token System in the past, they are being given Identity Cards and the system has been working satisfactorily, there has not been any dwindling of work nor has there been any spurt in the instance of thefts or pilferage which could have precipitated their decision to introduce Brass Token System. The management has not put forth any special and overwhelming circumstances which could have compelled them to introduce Brass Token System when such system has not been in existence in any other Port of the country.

12.7 We, therefore, come to the conclusion that in the existing circumstances the action of the management in introducing Brass Token System for the C&F Workers from 28-9-85 is not justified and should not be resorted to. However, in future if such system is introduced in other major ports of the country the Paradip Port Trust can also follow suit.

13. We award accordingly in respect of the 5 issues referred to us for arbitration.

14. We would like to place on record the unstinted co-operation given to us by all the parties to the instant arbitration case by way of not only co-operating during the deliberations but by extending time from time to time for releasing the Award keeping in view our other pressing engagements.

(H.G. BHAVE)
Jt. Chief Labour
Commissioner (C)
Arbitrator

P.D. SHENOY, Chief Labour Commissioner
(Central) & Arbitrator

[No. L-380131/85-D. IV (A)]
K. J. DYVA PRASAD, Desk Officer

New Delhi.

Dated 18th November, 1986.

नई दिल्ली, 9 दिसम्बर, 1986

का. अा. 4233 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में, केन्द्रीय सरकार, भारतीय ग्रामिण बैंक के प्रबन्धतंत्र से सम्बद्ध निवीजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट की प्रकाशित करत है, जो केन्द्रीय सरकार को 25-11-86 को प्राप्त हुआ था।

New Delhi, the 9th December, 1986

S.O. 4233.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Cent. 1 Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the Kshetriya Gramin Bank and their workmen, which was received by the Central Government on the 25th November, 1986.

BEFORE SHRI R. B. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, KANPUR

I. D. No. 239 of 1985

In the matter of dispute between:

Workmen of Kshetriya Kisan Gramin Bank
C/o Secretary
C/o Shri Asgar Khan
Mohalla—Mahmood Nagar
District—Mainpuri
State—Uttar Pradesh.

AND

The Chairman
Kshetriya Kisan Gramin Bank Limited
Kutcherry Road
Mainpuri Uttar Pradesh

APPEARANCE:

Shri H. S. Goel—for the Workman

Shri Amreek Singh—for the Management.

AWARD

1. The Central Government, Ministry of Labour, vide its notification no. 12011/55/84-D/II(A) dt. 29th March, 1985, has referred the following dispute for adjudication to this tribunal.

Whether the action of the management of Kshetriya Gramin Bank, Mainpuri in with drawing the order regularising 27 workmen named in the annexure and denying them prescribed pay scales and proper seniority is justified? If not, to what relief is the workmen concerned entitled?

2. The case of the workmen is that the management bank was established on 20th May, 1980, by M/s. UP Co-operative Bank Limited, Lucknow, and the management bank took about 10 or 11 persons on deputation from the sponsored bank and employed workers either on daily wages or on temporary basis and the 27 workmen of this case are temporary workmen of the management bank so employed. That they were appointed in the management bank as daily wages employee from the dates mentioned in the annexure attached with the reference order barring workmen S/Shri Ganga Mahesh Tripathi, Alok Kumar Yadav, Irfan Ali and Shri Surender Singh, mentioned at serial nos. 1, 2, 10 and 20 respectively who were directly appointed as ad hoc employees. The persons taken on deputation were mostly sent back by 1983, the management bank prepared a bank staff regulation in the year 1980 on the basis of which it was empowered to appoint temporary employees not exceeding 90 days. This regulation was prepared in exercise of power conferred by section 30 of the Regional Rural Banks Act, but banks director was not empowered to have two different service condition for the same class of workmen and hence, the ad-hoc and temporary employee were in permanent employment from the very beginning. That the management without there being actual break in service used to obtain applications from the workmen under threat of termination and had been giving artificial breaks in their services. The workmen wanted regularisation which resorted to collective bargaining and hunger strike as a result of which the management made all the 27 workers regular and intimidated the same to the officers of the District Administration. The management committee of the branch recalled the regularisation order, the workmen thereafter moved conciliation proceedings before ALC which resulted in present reference order. It is averred that the conciliation of the regularisation order is also illegal as the management did not give 21 days notice to the concerned workmen u/s 9-A of the ID Act and also that the junior persons to workmen were made regularisation and are being given pay of the scale rate. The workmen have pointed that in the reference order annexure attached with the reference order, the date of appointment of workmen Ram Prakash and Satva Pal mentioned against serial No. 6 and 7 is wrongly typed as 1984 in place of 1981. That as the order recalling regularisation has not been given effect to the workmen to be made regular from the said date.

3. The management has admitted its creation, and taking persons from the sponsoring bank as the said bank was responsible for proper functioning, and the conduct of the bank and to provide adequate staff during first five years. Further the chairman of the bank was fully empowered to appoint persons on stop gap appointment on daily basis and on ad hoc basis for short duration. They have however, denied that the appointments made against the rules or provisions of the act. It is averred that the workmen concerned were appointed purely on ad hoc basis on stop gap appointment for short duration and had never worked continuously and the dates given in the annexure in the reference order is their first date of appointment. The management admits that earlier chairman Shri G. D. Sharma appointed number of persons as temporary junior clerks-cum-cashier for a period not exceeding 90 days who continued to work even beyond that period specified in the appointment letter and the chairman never informed the Board of Directors of any exceptional circumstances for appointment of so many temporary junior clerks on such a large scale. If the Board of Directors in their meeting dt. 2-7-83 found that the chairman had no authority to appoint temporary employees and directed that the sponsoring bank should make an enquiry meanwhile the workers resorted to pressure tactics and exerted pressure on the chairman to regularise their services. Lastly the workers gave a notice dt. 14-4-84 that in case of failure of their regularisation they will go on Amaran Anshan from 22-4-84. The sponsoring union and its workers gheraoed the chairman which continued from 21-4-84 to 24-4-84 and when the higher authorities did not come to rescue the chairman was coerced to sign a typed order regularising the services of the 28 temporary employees including workmen concerned. Next day chairman informed the circumstances to the board of directors in which he had to pass the orders regularising the services of the workmen. It is averred that as the regularisation order passed on 24-4-84 was obtained under duress, threat and coercion is not a legal order. The board of directors of the management bank in an unanimous resolution passed on 15-6-84 cancelled the regularisation order signed by the establishment on 24-4-84. The management has averred that regular appointment in regular grades could only be done after the post to be advertised, written test held and candidates interviewed by selection committee and merit list finalised. In the above circumstances the regularisation order obtained from the establishment on 24-4-84 is neither justified nor legal. The management has further averred that the services of the 27 workmen were terminated w.e.f. 2-1-85 against which the workmen obtained said order from the Hon'ble Court (High Court) by virtue of which the operation of order dt. 2-1-85 stands stayed. In these circumstances the workmen are not entitled to any relief claimed.

4. The workman filed 66 documents alongwith their claim statement out of which W-1 to W-10 are appointment letters of the various workmen appointing them as Asstt.-cum-Cashier in scale 200-320 for 3 months or a month and that the services could be terminated any time without notice. The workmen has filed representation of all ad hoc employees Ext. W-11 representing that they were working for the last about 3 years and they were being paid in scale Rs. 200-320 while the regular appointees were being paid on the scale Rs. 354-550 Ext. W-12 is representation of the workmen dt. 14-4-84 requesting for regularisation else they will be forced to go on fast upto death. Ext. W-13 is letter of the General Manager of the bank regarding the sponsoring union to work in congenial atmosphere and have patience. Ext. 14 is letter to ALC to proceed according to law. Management has also filed 20 documents of which Ext. 1 is representation of the workman for scale rate of pay, M-2 is representation of the General Secretary of the sponsoring union to the Chairman for regularisation of the workmen. Similarly M-3 is another representation of the worker's union for regularisation of the temporary employees. M-V is the letter of District Magistrate to the Chairman and bank intimating the management that the workers had started agitation and their demands should be considered sympathetically Ext. the M-5 is yet another letter in the form of representation. Ext. M-6 is representation of the workmen representing chairman for personal hearing. Similarly Ext. M-7 and 8 and 9 are representation. Ext. M-10 is the management's order dt. 24-4-84 whereby all the workmen of this case including workman in the

reference order were regularised. Ext. M-11 is refusal of revised pay scale of Rs. 354-550 to the workman.

5. The workman summoned certain documents from the management regarding which the management replied on affidavit that the attendance register prior to August, 1982 had been stolen away and that the documents mentioned at serial Nos. 2 to 9 are confidential and privilege documents and the document summoned range from 1 to 5 years and would be about a truck load and the applicants simply wants roving and finishing enquiry they consequently prayed for sufficient time.

6. The management representative vide his statement given on 29-11-85 on the order sheet admitted that all the 27 workmen were continuing in the management's service as per orders of the Hon'ble High Court thus there was no need of joint inspection of the workmen that they had worked after 10-1-85 and prior to that the management had admitted per chart filed that the workman have worked with breaks. Inspection was consequently ordered to show if the workmen had worked during the broken periods also. Workmen wanted to peruse attendance register and books of cash etc. The joint inspection report was filed on 27-1-86.

7. On behalf of the workmen one Shri A. K. Saxena has filed his affidavit reiterating the stand taken in the written statement and deposing the entire matter from appointment till alleged regularisation under duress and its recall. He has admitted that he has last period by the management regarding working days as per list filed on 7-10-85 is on the basis of the management record and is correct. He has further admitted that the joint inspector report dt. 26/27 June, 1986 is also on the basis of record and correct. A perusal of the two documents shows that in the list filed on 7-10-85 management has not shown some of the dates on which the workman had actually worked. He has admitted that no notice was given to the workman before withdrawing the regularisation. He states that he had intimated the fact of regularisation under compulsion vide letter dt. 25-4-84 a copy of the said letter is paper no. 16 filed by the management. In the end he has admitted that at the time of appointment all the workmen were working in the scale of junior clerks i.e. Rs. 200-320 and this scale on being revision came to be scale of Rs. 354-550.

8. On behalf of the workmen one Shri Devendra Kumar Misra who appeared in the witness box. He has supported the claim statement and stated that the workmen never gheraoed the chairman nor obtained his orders on 24-4-84 under duress rather he had made his signature of his free will and voluntarily. He has also averred that the workmen are entitled to revised scale rate of pay on the ground of equal pay for equal work. In cross-examination he admits that the banking hours are from 10 to 5 p.m. but the orders were passed for regularisation by chairman between 10 to 11 a.m. on 24-4-84. He further admits that at that time 5 workmen of outside union, 26 persons were with me of our union and 50 or 60 were workmen of other union were there.

9. Under trade union right of collective bargaining with the management has been recognised but that bargaining has to be done in a right full way and not with a view to assault or coerce some one in doing some action, fraud coerce and undue influence vitiate all solemn proceedings as the same is not done by free mind and in the case of fraud it is competent by practising deception on the mind of another. Admittedly the regularisation order passed on 24-4-84 at about 10.30 p.m. when besides workman there were 50 or 60 workmen from other branches, though the workmen witness has denied gherao of the chairman or having obtained orders without any pressure or coercion yet the circumstances that the very next day the chairman wrote to the Board of Directors giving details of happenings from 26-3-84 i.e. the date when hunger strike by one by one was started and ultimately fast untodenth strike was stated from 21-4-84 and gherao commenced from 22-4-84 and the bank was completely paralysed and the situation was deteriorating day by day. The letters on the record show that even the District Magistrate wrote to the chairman to settle the matter amicably. In the end of his letter he has written that as the condition of Shri Jai Prakash was getting precarious and considering the pressure on him from the persons assembled he had no other alternative but to make them regular

and consequently the circumstances compelled him to pass the regularisation order. He suggested there in that considering their educational qualification and other requirements the regularisation be confirmed and in case any illegality is found in giving them regular appointment their services will be terminated.

10. In the written statement management mentioned in paragraph 8 that the chairman immediately after being relieved from the clutches of gherao wrote to the authorities concerned protesting against the signatures obtained by the striking workmen. In his deposition he stated that he sent letters dt. 25-9-84 to District Magistrate and Superintendent but he has not filed the copies of the letters sent to them. The management in its para 9 of the written statement averred that the power of regularisation never vested in the Chairman and in this connection reference may be made to the staff regulation 1980 of Kshetriya Gramin Bank, Mainpuri in which it is clearly laid down that under rule 5 that Chairman of the bank shall be appointing authority in respect of all the post in the bank other than of the Chairman, thus if he is the appointing authority he will be confirming authority and will have right to regularise if candidates are found suitable for appointment in all respect.

11. Admittedly the board of directors in their resolution dated 15/16-6-84 cancelled the regularisation order passed by the chairman the same was cancelled as the said order was passed under duress and coercion. I agree that the order was not passed with free mind but under pressure and duress just to defuse the entire situation and on that count will not be effective, legal and binding, the result is that the workman would continue as temporary employees. Admittedly the workmen are continuing in service upto now. Which eventually is the effect of cancellation by Board of Directors, they

themselves said that their services were terminated on 2-1-85 but the operation of the order has been stayed under the orders of the Hon'ble High Court. I consequently hold that the action of the management in withdrawing of order namely 27 workmen named in annexure attached with this award is justified. As regards scale of pay and seniority their does not appear any justifying reason why the workmen should not be given revised pay scale when they have been allowed to continue to work beyond 90 days for which period their appointment was made and subsequently pay scale was enhanced, further it is not disputed that other new hands are getting the revised pay scales.

12. In these circumstances, I hold that the workmen are entitled to the revised pay on the ground of equal pay for equal work, as regards their seniority inter-se temporary employees of the management the workmen shall be reckoned seniority to other temporary appointments made by the management. I, therefore, give my award on this point accordingly.

13. Before I part with the case it may be mentioned that under section 2(r) (o) and item no. 12 in the 5th Schedule of the I.D. Act employing workmen as temporary and continuing them for years is an unfair labour practice and as such they should be considered for regularisation if found suitable for appointment in all other respects.

14. I, therefore, give my award accordingly.

15. Let six copies of this award be sent to the Government for its publication.

R. B. SRIVASTAVA, Presiding Officer.
(No. L-12011/55/84-D.II(A))
N. K. VERMA, Desk Officer.

ANNEXURE TO THE AWARD

Sl. No.	Name	Father's Name	Date of Birth	Date of appointment
1.	Shri Ganga Mahesh Tripathi	Shri Gurusevak Tripathi	5-1-1951	17-12-1980
2.	Shri Alok Kumar Yadav	Shri Rajenderpati Yadav	15-7-1951	14-2-1981
3.	Shri Ved Prakash Saxena	Shri Chandrasen Saxena	10-1-1956	1-5-1981
4.	Shri Mukesh Kumar Gaur	Shri Inderdev Singh Gaur	—	16-7-1981
5.	Shri Layak Singh Yadav	Shri Rakshpal Singh	3-3-1955	14-11-1981
6.	Shri Ram Prakash Yadav	Shri Ulphat Singh	5-1-1957	21-11-1984
7.	Shri Satya Pal Singh	Shri Vampal Singh	—	23-11-1984
8.	Shri Ram Ratan Singh	Shri Subedar Singh	5-8-1954	22-11-1981
9.	Shri Brajesh Kumar Singh	Shri Ram Autar Singh	—	23-11-1981
10.	Shri Irphan Ali Khan	Shri Ashraph Ali Khan	4-4-1959	16-9-1981
11.	Shri Dhronder Kumar Mishra	Shri K.D. Mishra	1-7-1955	14-11-1981
12.	Shri Ram Narosh Yadav	Shri Gulab Singh Yadav	—	1-5-1982
13.	Shri Ram Pal Singh	Shri. Tursan Pal Singh	1-10-1958	1-5-1982
14.	Shri Dhrob Singh	Shri Bharat Singh	—	1-5-1982
15.	Shri Arun Kumar Yadav	Shri Ramchander Singh	1-4-1959	1-5-1982
16.	Shri Bhagwan Singh	Shri Nekram Singh	—	2-8-1982
17.	Shri Bhanupratap Singh	Shri Sarnam Singh	—	2-8-1982
18.	Shri Jayprakash	Shri Hotram Singh	—	2-8-1982
19.	Shri Umanand Gupta	Shri Kamalapati Gupta	—	7-12-1981
20.	Shri Sukhender Singh	Shri Jadunath Singh Chauhan	1-7-1958	2-8-1982
21.	Shri Rajesh Bhatnagar	Shri Shanti Swaroop Bhatnagar	—	1-5-1982
22.	Shri Vadprakash Yadav	Shri Shivcharan	—	1-5-1982
23.	Shri Ompal Singh	Shri Ganpati Singh	28-12-1957	1-1-1983
24.	Shri Devender Kumar Mishra	Shri Brijlal Mishra	1-3-1952	1-1-1983
25.	Shri Vedprakash Pandey	Shri Ashwathama Pandey	—	1-2-1983
26.	Shri Girish Babu Srivastava	Shri Ghamandi Lal	1-1-1955	1-3-1983
27.	Shri Shivraj Singh	Shri Itwari Lal	15-12-1961	3-3-1983

R.B. SRIVASTAVA, Presiding Officer

नई दिल्ली, 10 दिसम्बर, 1986

APPENDIX

Sl. No.	Name
1.	Sri Ramswarup Dusadh
2.	Sri Saddique
3.	Sri Dukhu
4.	Sri Govind Rabidas
5.	Sri Krishna Dusadh
6.	Sri Anil Haque
7.	Sri Jawahar Rabidas
8.	Sri Bijoy Bouri
9.	Sri Dasu Bouri
10.	Sri Ram Bilash Prasad
11.	Smt. Lalia Chamarin
12.	Smt. Jiria Chamarain
13.	Smt. Sarathi Rajwarin
14.	Smt. Kosilya Dhoabin
15.	Sri Khaman Dhobi
16.	Sri Akalu Roy
17.	Sri Rajendra Dushadh
18.	Sri Rajeswar Dusadh
19.	Sri Sahadeo Dusadh
20.	Sri Sheocharan Rajak
21.	Sri A. Rouf
22.	Smt. Chanmani
23.	Smt. Sanjotia
24.	Smt. Chapali
25.	Smt. Balika
26.	Smt. Sand Manjhin
27.	Smt. Sumitri
28.	Smt. Bandhiya
29.	Smt. Bldu Bourin
30.	Sri Janki Chamar
31.	Sri Desarath Bhuia
32.	Smt. Sohagi Nunlain
33.	Smt. Bhusia
34.	Smt. Kamali
35.	Smt. Mangala
36.	Sri Mohan Dusadh
37.	Sri Sohan Dusadh
38.	Sri Deolal Chamar
39.	Sri Bijoy Noonla
40.	Smt. Paro Manjhin
41.	Smt. Rani Manjhin
42.	Smt. Parbati Manjhin
43.	Smt. Jhunia Bourin
44.	Sri Krishna Bhuia
45.	Smt. Manu Rajwarin
46.	Smt. Ratani
47.	Sri Bhuneswar Bhuia
48.	Sri Jageswar Bhuia
49.	Sri Bindshwar Rabidas
50.	Sri Biran Rabidas
51.	Santi Bouri
52.	Sri Karu Bouri
53.	Sri Naru Rai

का.अ. 4234—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में, केन्द्रीय सरकार, टाटा आयरन एंड स्टील लि. का मालकेरा कोलियरी के प्रबन्धन से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, धनबाद के पंचाट का प्रकाशित करती है, जो केन्द्रीय सरकार को 25 नवम्बर, 1986 को प्राप्त हुआ था।

New Delhi, the 10th December, 1986

S.O. 4234.—In pursuance of section 17 the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Malkera Colliery of M/s. Tata Iron and Steel Co. Ltd., Post Office Jamadoba, Distt. Dhanbad and their workmen, which was received by the Central Government on the 25th November, 1986.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 73 of 1981

In the matter of industrial disputes under Section 10(1)

(d) of the I. D. Act, 1947.

PARTIES :

Employers in relation to the management of Malkera Colliery of Messrs Tata Iron and Steel Company Limited, Post Office, Jamadoba, District Dhanbad and their workmen.

APPEARANCES :

On behalf of the workmen : Shri S. Bose, Secretary,
R.C.M.S. Union.

On behalf of the employers : Shri K. D. Chatterjee,
Senior Advocate and
Shri N. C. Ganguly, Advocate.

STATE : Bihar

INDUSTRY : Coal

INDUSTRY : Coal.

Dated, Dhanbad, the 19th November, 1986

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947, has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012 (118)/81-D.III (A), dated, the 23rd October, 1981 :

SCHEDULE

"Whether the demand of the workmen of Malkera Colliery of Messrs Tata Iron and Steel Company Limited, Post Office Jamadoba, District Dhanbad that the ex-Wagon loaders named in the Appendix should be reinstated with back wages is justified ? If so, to what relief are the workmen concerned entitled ?"

Sl. No.	Name
54. Sri Bideshi	
55. Smt Rupni Manjhin	
56. Sri Sukhdeo Noonia	
57. Sri Mathura Dusadh	
58. Sri Niranjana Digar	
59. Sri Karu Mia	
60. Sri Rajkumar Ram	
61. Sri Ramutar Sharma	
62. Sri Kali Bhuia	
63. Sri Bucha Noonia	
64. Sri Ramjee Noonia	
65. Sri Ramratan Singh	
66. Smt. Kosilya	
67. Sri Baldeo Noonia	
68. Sri Sohan Rabidas	
69. Sri Abbas	
70. Smt. Fulmoni	
71. Sr Kalicharan	
72. Smt. Parni Majhin	
73. Smt. Lalmoni	
74. Sri Nimai Digar	
75. Sri Bhago Digar	
76. Sri Sarju Mistry	
77. Smt. Hiramani	
78. Sri Nandu Bhuia	
79. Sri Saukat Ali	
80. Smt. Mohani	
81. Smt. Bhano.	
82. Sri Ponaram Mahato	
83. Sri Bipat Bhuia	
84. Sri Mathura Roy	
85. Smt. Kausilya Devi	

The case of the workmen is that the concerned 85 workmen were working as Wagon Loaders in Malkera Colliery. The said Malkera Colliery is the captive mine of M/s. Tisco. The management of Malkera Colliery used to load wagons by manual labourers and the concerned workmen were all permanent employees working in the capacity of wagon loaders at Malkera Colliery continuously for a number of years. They were receiving payment of their category rate of wages, D.A., V.D.A., bonus and other emoluments from the counters of the colliery management and it was paid by the staff of the colliery management under the supervision of the officers of the management. The management stopped their duties with effect from 14-8-1978 without assigning any reason to them. The job of wagon loading is of permanent nature in the Malkera Colliery of the management. They were employed by the management through 10 contractors. They became permanent employees of the colliery as they had been working for the collieries since long time. The services rendered by them in the coal loading was for the benefit of colliery management. They were loading the coal raised from the mines of the Malkera Colliery into railway wagons which were despatched to the management owned steel factory at Jamshedpur after being washed at Jamadoba Central Washery of Tisco. The ultimate benefits of the services of the concerned workmen were for the interest of the colliery management and thereby there was inherent relationship of employer and employee between the concerned workmen and the management of Malkera Colliery.

K.C.M.S., the union of the workmen, raised the issue before the colliery management as well as the higher authorities of the management protesting against the stoppage of employment in respect of the concerned workmen of whom some had continuous service for over 15 years. The minimum length of service of the concerned workmen were more than 5 years. The management did not concede to the demand of the workmen and the concerned workmen were forced to idle while the management got their job or wagon loading done by other persons by depriving the concerned workmen from their services and putting them into the economic distress. The union of the workmen thereafter represented the case before the ALC(C), Dhanbad vide their letter dated 23-4-1979. The ALC(C), Dhanbad took up the matter with the parties and held conciliation proceeding which ended in failure. The ALC(C), submitted his failure report before the Central Government in the Ministry of Labour and thereafter the present reference was made for adjudication by this Tribunal. It is submitted that the action of the management in stopping the concerned workmen from their job of wagon loading was entirely arbitrary, illegal and act of unfair labour practice.

It was because of introduction of pay loader in Malkera Colliery in 1978 that the work of wagon loading of the concerned workmen were stopped. It has been prayed by the workmen that the concerned workmen should be reinstated in the job of wagon loading or in similar job with full back wages and other allowances as if their services were not terminated by the management.

The case of the management is that M/s. Tata Iron and Steel Co. Ltd. (hereinafter referred to as Tisco) is having its steel plant at Jamshedpur for manufacture of steel and other connected projects. The company for the purpose of manufacture of steel at Jamshedpur has some of its captive collieries in the district of Dhanbad including Malkera Colliery for having a speedy and regular supply of coal for consumption by its steel plant. The job of coal mining operation of Tisco is to supply coal exclusively for the use of its steel plant at Jamshedpur. There has always been an endeavour on the part of the management to adopt new process and method to improve the productivity and adjustability to the modernisation programme of the Steel Plant and the latest method have been introduced for movement of coal. The loading of coal into railway wagons at Malkera Colliery has been more or less mechanised and all efforts are made to bring it at par with the best operated mine. Contractors labourers were intermittently utilised as per exigency of work on failure of the management's mechanised screening plant and pay loaders. The introduction of contractor labour was incidental and not of a perennial nature and it was for short intermittent period. As the management have small number of collieries owned by it the management was not having a regular departmental forces to attend the loading in case of mechanical failure or due to irregularity in the supply of wagons by the Railway. The management had introduced pay loaders for loading of coal in the Railway-wagons and other ancillary jobs as long as the year 1965-66 when pay loaders were introduced. Subsequently indigenous manufactured new pay loaders were introduced in 1976, 1977 and 1978 and they were put to operation. The mechanised screening plant loading had been in operation in the colliery since before 1965-66. The contractors labourer were required to supplement the departmental workers in the matter of loading only in the event of breakdown of mechanised loading of coal in the wagons in order to maintain the efficiency and in order to provide continuous supply of coal of a particular quality and quantity to the management's steel plant at Jamshedpur. The requirement of contractor labour was intermittent sporadic and for a short duration and as such sufficient number of workmen could not have been employed by the management on whole time basis.

On 1-2-1975 the Central Government issued a Notification abolishing contractor labour in loading and unloading of coal in the wagons and therefore the management had to disengage the contractors for this purpose. The management, however, could not immediately abolish the contractor labour after the Notification of the Government as there was some law and order problem in some of the management's collieries. The LEO(C) Katrasgarh inspected the colliery on 22-7-1978

and advised the management that it must immediately give up the intermittent engagement of contractor labour and thereafter the management stopped the contractors from taking further job or wagon loading on and from 14-8-78. After the abolition of the contractor labour with effect from 14-8-1978 the union raised a demand for loss of work to the concerned workmen. The Divisional Manager replied to the letter of the Joint General Secretary of the union stating that on verification of the list enclosed along with the union's demand it was found that the concerned workmen had worked only for a few days under the contractor and that the job of wagon loading is performed by screening plant and pay loader. Thereafter the union filed complaint before the ALC(C), Dhanbad and there was a conciliation proceeding in which the management gave its comment regarding the demand of the concerned workmen. The management further stated that only 5 or 6 persons had worked for 100/150 days in a year and majority of the concerned workmen had worked for less than 20 days in a year and many had not worked even for a day in the last one or two years. The concerned workmen are actually contractors workers and there is no privity of contract between the management and the concerned workmen. There was no relationship of employer and employee between the management and the concerned workmen and as such the dispute raised in this case cannot be a subject matter of industrial dispute between the management and the concerned workmen. The concerned workmen were admittedly in the employment of the contractors and the management which is the principal employer has only carried out the direction of law under the contract labour (Regulation and Abolition) Act, 1970. The formation of opinion in making the reference that the management should reinstate the concerned workmen with back wages is illegal and void, as it disregards while forming the opinion, the most material consideration that the concerned workmen were never in the employment of the management and that their services had never been terminated by the management. The services of the concerned workmen were terminated by the contractors who were their employers and therefore the demand of reinstatement could be raised against their own employers only and the reference is incompetent. The stoppages of the contractors labourers is because of the abolition of the contract labour system and the advice of the LEO(C) Katragarh after his inspection on 22-7-1978. The contractors had to withdraw their workers from loading of coal in the wagons consequent upon the abolition of contract labour system and as such there was no question of the termination of their employment by the management. There was no provision in the Contract Labour Act for absorption of the contractors labour in the employment of the principal employer. The management is not in a position to make provision for the employment of the concerned workmen as the entire loading of coal is done departmentally with the help of pay loaders and screening plant.

The company had no control or supervision on the persons engaged by the contractors from time to time. The management had no economic control over the contractors workers and their employment in substance and in real life term was by the contractor. Their livelihood depends on their working in various other establishments and not alone on the work rendered in management's establishment and as such there is no real life bond between them and the management as will appear from the record of the management. As the concerned workmen were not in the employment of the management, at any time there was no question of termination of their service by the management and as such the question of their reinstatement does not arise. On the above plea it was prayed on behalf of the management that the Award be made in favour of the management holding that the concerned workmen are not entitled to reinstatement in the establishment of the management.

The main question to be determined in this reference is whether the concerned workmen were the 'Workmen' of the management under the Industrial Disputes Act. The relief of reinstatement with back wages to the concerned workmen will follow on the decision of the said issue.

The workmen examined four witnesses and the management examined 11 witnesses to establish their respective cases. The workmen also produced documents which have been

marked Ext. W-1 to W-7. The management's documents have been marked Ext. M-1 to M-17.

The issue of reinstatement of the concerned workmen referred in the schedule of the order or reference can be decided in favour of the workmen only if it is found that the concerned workmen were already in the employment of the management. Thus the foremost point for determination in this case is whether the concerned workmen were the workmen of the management. It is therefore to be seen whether the concerned workmen were actually workmen of the management or were contractors labourer. Admittedly the concerned workmen were working in loading of coal in the wagons at Malkera colliery for the management and as such admittedly the management was the principal employer of the concerned workmen. The workmen have examined WW-1 Abdul Jabbar who is the Branch Secretary of the R.C.M.S. Union at Tata Malkera Branch, WW-2 Sumar Mahato who was the Branch Secretary of R.C.M.S. Union of Tata Malkera Colliery in 1980-81 and had raised the industrial dispute in respect of the concerned workmen, WW-3 Ram Swarup Dusadh and WW-4 Bandhiya who were working as loaders in Malkera Colliery and were stopped from working as wagon loader with effect from 14-8-78. It is admitted case of the parties that the R.C.M. union had raised the industrial dispute in respect of the concerned workmen with the management and had also raised an industrial dispute before the ALC(C), Dhanbad. It will appear from the evidence of workmen WW-3 Ram Swarup Dusadh that he was working under the contractor named Anis. WW-1 who is the Branch Secretary of R.C.M.S. of Tata Malkera Colliery branch had stated that there are many contractors working in Malkera Colliery and has named Md. Anis, Ahmed Hussain, M. R. Chopra, Jaiaram Mahto and Govind. Ext. W-1 dated 7-11-78 is the demand which was sent by WW-3 to the management by which the union had demanded their reinstatement of the concerned workmen. The President of R.C.M.S. Malkera Branch had sent an annexure along with the demand which also formed part of Ext. W-1. The said annexure is a list of wagon loading mazdoor and Kamin in respect of whom the demand was made by the union. It includes the name of the 85 concerned workmen in respect of whom the present reference has been made. The said list shows the names of the wagon loaders and the name of their father. Names of the different contractors under whom the concerned workmen were working is also stated in the list along with the length of services of the concerned workmen. Thus it will appear from Ext. W-1 itself that the concerned workmen were working as wagon loaders under different contractors.

It is the admitted case of the workmen that no appointment letter was given to them by the management. The contractors MW-8, Ahmed Hussain and MW-10, Md. Anis have stated that they had appointed the labourers for the purpose of wagon loading.

There is no paper to show that the concerned workmen were directly appointed by the management. On the contrary the case of the workmen is that they were appointed by the management through the contractors i.e. to say that they had actually been appointed by the contractors to do the work of loading of coal in the wagons for the management. It is clear therefore that the concerned workmen had not been appointed directly by the management.

According to the case of the workmen although they had been employed by the contractor, they were actually the employees of the principal employer namely the management of Malkera Colliery and that they were working under the supervision and control of the management. In this connection there is contesting evidence adduced on behalf of the parties. MW-2 Charan Singh who is working as a Pay Loader operator since 1967 in the collieries of the management has stated in para-1 of his deposition that the work of the contractors men were supervised by Munshi of the contractors. MW-10 in para-2 has stated that he used to supervise the work of wagon loaders and his Munshi used to also supervise their work. He has further stated that Loading clerk of the company used to allot the wagons to the contractors for loading of coal. It will appear from the evidence of MW-8 Ahmed Hussain who is also working as contractor in Malkera Colliery and from Ext. W-1 that 10 of the concerned workmen were working under him. He has stated in para-5 of

his deposition that the work of labourers of contractors were supervised by the contractor and their Munshi or Loading Clerk of the management. It will thus appear from the evidence of one or the contractors examined on behalf of the management that the Loading Clerk of the management also used to supervise the work of the concerned workmen working as Wagon Loaders inspite of the fact that the management's witnesses had tried to show that the supervision of the wagon loaders used to be done by the contractor and their Munshi. The truth has come out in the evidence of the contractor MW-8 whose evidence clearly shows that the Loading Clerk of the management was also supervising the contractors labourers. MW-6 Shri C. K. Jha, Personnel Manager of the management who had worked in Malkera Colliery as Personnel Officer from 21-1-71 to 20-7-79 has stated in para-12 of his evidence that the Loading Clerk used to supervise the work of loading in the siding. It is clear therefore that the management had control and supervision over the work of the wagon loaders.

The management has led evidence on the point that the attendance of the wagon loaders was being maintained by the contractors who had engaged them for the loading of coal in the wagons. Although the contractors MW-8 and MW-10 have stated that they themselves used to maintain attendance register in respect of the wagon loaders working under their contractor, it will appear from the evidence of MW-8 in para-4 of his deposition that the management also used to maintain attendance of the contractors labourers on slip being issued by the contractors. WW-3 has stated that their attendance was marked at the gate by the Assistant of the management and their attendance was also noted by the Munshi of the contractor. It will thus appear from the evidence of MW-8 and WW-3 that the management was also maintaining the attendance of the wagon loaders. If the management had no concern with the attendance of the wagon loaders they would not have maintained the attendance separately.

It is stated on behalf of the management that as the concerned workmen were the contractors labourers their wage-sheet used to be prepared by the contractors and that the wages also were being paid to them by the contractors. The evidence of MW-5 who is incharge of the Accounts section of the colliery, the contractors MW-8 and 10 will show that the wage bill of the wagon loaders used to be prepared by the contractors. On perusal of the wagesheets it will appear that the wage sheets were being prepared on the forms of the management and it bears the signature of the Manager and Incharge accounts Section. Ext. M-2 to M-2/10 are the wage-sheets bearing the signature of one Ramashankar Kurmi in the column showing that the wage-sheets were compiled by Ramashankar Kurmi. MW-4 Shri H. Khan working as a Bill Clerk of the management at Malkera colliery has stated in his cross-examination that since about 15 years there is no contract system in Malkera Colliery. This evidence may be of significance to show that the contract system in Malkera colliery had been stopped soon after the abolition of contract labour and that those who were shown working under the contractor were actually the workmen of the management but were shown in the papers as contractors workers. He has further stated that Ramashankar was employed by the company after the abolition of the system of contract. Thus Ramashankar who was appointed after the abolition of the contract system about 15 years ago was working under the management and as such the bills which have been shown as having been compiled by Ramashankar were actually the bills which were prepared by the management itself. There is no positive evidence on behalf of the management to show if the said Ramashankar was the contractor's employee when the bills had been compiled by him. I have perused the other attendance-cum-pay sheets Ext. M-2 series, Ext. M-8 series and Ext. M-13 series in which there is signature of somebody who had compiled them but there is no positive evidence that the persons who had compiled them and whose signatures are on the pay sheets were the employees when the bills had been compiled by him. I have the contractors themselves. It is not possible to say definitely that the attendance-cum-pay sheets had been prepared by the contractors or their employees. I hold therefore that the bills used to be prepared by the management in their own printed forms.

MW-5 who is incharge of the Accounts Section in Malkera Colliery, MW-6 the then Personnel Officer, MW-8 and MW-10 contractors have all stated that the payment of wages to the contractors labourers used to be made by the contractors in presence of the welfare officer or the Personnel Officer of the management at the counter of the company. The said pay-sheet relating to the basic wages paid to the workmen show that there is nothing on these pay sheets indicating that the wages were paid out of the amount which was handed over by contractor to the management's employees at the counter at the time of payment of wages to the workmen. It is stated by the management's witnesses that they were identified by the contractors or their representative at the time of payment but there is no note on the pay sheets to show that the contractors or their representative were present at the time of payment of wages to the workmen. Except for the oral evidence adduced on behalf of the management there is nothing on the record to show that the wages being paid at the counter of the management was paid out of the money handed over by the contractors to the management, considering the entire method of payment of wages to the workmen, it appears that the wages were being paid directly by the management to the workmen and the contractors had not advanced the amount to the management's employees for being paid to the workmen. I hold therefore that the wages of the wagon loaders were paid directly out of the fund of the management and that it was not paid by the contractors. It is admitted case of the parties that the management was paying V.D.A. and quarterly or attendance bonus to the contractors workmen directly. MW-5 who is incharge accountant of Malkera colliery has stated that he used to prepare the V.D.A. bill till 1978 and that the V.D.A. was paid from the cash of Tata company. He has further stated that V.D.A. payment used to be made directly by the company to the individual labourers of the contractors and the payment used to be witnessed by the Personnel Officer and the Welfare Officer in presence of the contractors men. MW-8 who is a contractor has stated that the quarterly bonus and V. D. A. used to be paid to the contractors labourers by the management in presence of the Welfare Officer, Personnel Officer, MW-9 has also stated that the V. D. A. and attendance bonus used to be paid to the contractors labourers by the company. It will thus appear that the V. D. A. and Quarterly Bonus used to be paid to the contractors labourers directly by the management. If the wagon loaders were actually in the employment under the contractors the management had no obligation to pay them the V. D. A. and attendance Bonus them. It is submitted on behalf of the management that the attendance Bonus was given to the wagon loaders as an incentive to obviate failure of attendance as and when their services were required and that V. D. A. was an ex-gratia payment as an incentive. If the management's case is to be accepted it was the obligation of the contractors to procure the attendance of the Wagon for loading coal for which the contractors were paid commission, the management was paying the wages for loading of coal to the contractors and there was absolutely no necessity of paying V. D. A. and attendance Bonus to the wagon loaders. The fact that the management was paying V. D. A. and attendance Bonus to the wagon loaders is an indication of the fact that they were actually the employees of the management and as such they were paying V. D. A. and attendance Bonus directly. The contractors MW-8 has stated that they used to get commission on the loading of the wagons on the basis of number of wagons loaded by their labourers whereas the payment of their labourers was made on the basis of weight, of coal loaded by them. It is clear from his evidence that the contractors used to get commission on the loading of wagons on the basis of number of wagons loaded by the wagon loaders and as such it was in the interest of the contractors themselves to get the attendance of the wagons loaders so that they may earn more commission on the loading of coal by their wagon loaders and as such there was no necessity for the management to pay the V.D.A. and attendance bonus. The fact that the management was directly paying the V.D.A. and attendance bonus. To wagon loaders shows that the wagon loaders were the employees of the management and as such those payments were made directly by the management. The above fact further leads us to a conclusion that the economic control of the wagon loaders was in the hands of the management as they used to pay the attendance bonus and V.D.A. to the wagon loaders.

The management has led great stress on the fact that there are many circumstances which show that there is no direct relationship of employer and employee between the management and the wagon loaders. It has been stated that the work of the wagon loader was stopped by the contractors employing them and that the management had not directly stopped their work. Admittedly, the concerned workmen were working as wagon loaders through the contractor and the management had stopped the contractors from the contract job in wagon loading but that in itself cannot establish that the concerned workmen were not the employees of the management. The case of the workmen is that the management had devised a method by which they were taking the work of wagon loading through the contractors but actually the concerned workmen were the employees of the management and a veil had just been created in the shape of the contractor to show that they were not the employees of the management and that they were the contractors labourers.

Admittedly the concerned workmen had not received any appointment letter from the management and no identity card was supplied to them by the management. The hours of work of the concerned workmen were not fixed. It depended on the supply of wagons for the loading of coal in the siding. The workmen were not paid on the basis of their fixed hour of work but were paid on piece rated basis. There are permanent workmen of the management also who work on piece rated basis as such only because they had no fixed hour of work as in case of other workmen of the company cannot be taken as a ground to show that the wagon loaders were not the management's employees. It is also admitted that the wagon loaders used to take permission for leave from the contractors. Admittedly, in accordance with the devise which had been thought out by the management, as the wagon loaders were working through the contractor they used to take permission from their respective contractors. The management has taken a point that no Overtime was paid to the contractors labourers by the management as is being paid to the permanent employees of the management and as such the wagon loaders were not the workmen of the management. By the very nature of the work of the wagon loaders it will appear that they were getting wages on piece rate basis and as such they were getting wages in a group in accordance with the loading work done by them and as such there was no question of paying any overtime to them. Admittedly no quarters were provided to the contractors workers and medical facilities were not extended to their family members. The non provision of quarters to the wagon loaders cannot be a point to show that they were not the workmen of the company. There are many workmen of the management who have not been provided with quarters by the management. It is also submitted that the tools were not supplied to the contractors labourers by the management. MW-6, MW-8 and MW-10 have stated that the contractors used to supply Belcha, Tookri, Jhora etc. to the wagon loaders. These are the ordinary type of materials required for the manual loading of coal in the wagons and even if it was not supplied by the management it cannot be said on its basis that the contractors labourers were not the employees of the management.

The totality of the facts and circumstances discussed above show that the contractors wagon loaders were the employees of the management and that they were the "Workmen" of the management under the provision of Industrial Disputes Act. The case of the management that after the inspection of the LEO(C), Katrasgarh in Malkera Colliery the management stopped the contractors labourers in the job of wagon loading as the said job was prohibited under the contract labour Act. Admittedly the contract labour Act came into force in 1975 but even then the management was taking the work of wagon loading through the wagon loaders under the contractors. Thus according to the case of the management the contractors labourers were being employed in the job of wagon loading even after the stoppage of the work of wagon loading under the contract labour Act. It cannot be imagined from the management of Tisco which is a very highly organised establishment having expert personnel that they had no knowledge about the abolition of contract system in the loading of coal by the contractors labourers. The fact that the management was taking the work of wagon loading

through the contractors labourers show that the wagon loaders were actually the employees of the management and as such they had allowed them to continue their job in the loading of coal in the wagons. The contractors MW-8 and 10 stated that the management of Tisco, had stopped their work of contract labour and as such the contractors stopped the workmen. It is the case of the workmen that they were doing the job of wagon loading only and were not engaged in any other job and as such the stoppage of their work from wagon loading has caused their unemployment and their said non-employment was not actually caused by the contractors but it was caused by the management of Tisco. It has been submitted on behalf of the workmen that the contractor were brought as intermediaries in the job of loading of coal so that the management may not have to pay the other benefit to the wagon loaders which was being paid to the regular workmen of the management under the recommendation of the Coal Wage Board and NCWAS. Ext. M-10 is the certified standing orders of the management which in clause 1(a) defines "employee" which includes workmen employed under contractor also and as such a workmen under the contractor also will be deemed to be an employee of the management and were entitled to all the facilities provided under the recommendation of the Coal Wage Board. It is submitted that in order to avoid payment of all the facilities provided under the Coal Wage Board Recommendation the management had devised a mean to appoint the wagon loaders through the contractors but in fact it will appear that the wagon loaders were the actual employees of the management and a veil had been put by employing them under the contractors. The contention raised on behalf of the workmen does not appear to be far from the truth and as we have discussed above it appears that the concerned workmen were actually the employees of the management and it was a clever devise on the part of the management to employ them under the contractors so that the management may not have to give all the facilities which has to be provided to the regular employees of the management.

The workmen have placed a case reported in AIR 1978 Supreme Court 1410—LIC 1978 page 1264 (Hussainbhai—vrs—The Alath Factory Tezhilali Union and others) in support of their case in which the test as to who is a workman and employer has been indicated. Their Lordship have stated that "where a worker or group of workers labours to produce goods or services and these goods or services are for the business of another, that other is, in fact, the employer. He has economic control over the workers' subsistence, skill, and continued employment. If he, for any reason, chokes off, the worker is, virtually, laid off. The presence of intermediate contractors with whom alone the workers have immediate or direct relationship ex contract is of no consequence, when on lifting the veil or looking at the conspectus of factors governing employment, we discern the naked truth, though draped in different perfect paper arrangement, that the real employer is the management, not the immediate contractor. Myriad devices half hidden in fold after fold of legal form depending on the degree of concealment needed, the type of industry the local conditions and the like, may be resorted to when labour legislation casts welfare obligations on the real employer, based on Arts. 38, 39, 42, 43 and 43-A of the Constitution. The Court must be astute to avoid the mischief and achieve the purpose of the law and not be misled by the maya of legal appearances." Their Lordships further held that "if the livelihood of the workmen substantially depends on labour rendered to produce goods and services for the benefit and satisfaction of an enterprise, the absence of direct relationship or the presence of dubious intermediaries or the make-believe trappings of detachment from the Management cannot snap the real life bond. The story may vary but the inference defies ingenuity. The liability cannot be shaken off." Having the above principle in view it will appear in the present case that the livelihood of the contractors wagon loaders substantially depended on labour rendered to produce service for the benefit and satisfaction of the management of the Tisco. Absence of direct relationship between the Tisco management and the workmen or the presence of the contractors are just the trapping of detachment of the workmen from the management and the same cannot be used by the management by the presence of the contractor to snap, the real life bond bet-

ween the management and the workmen. The management cannot shake off the liability of being the employer of the concerned workmen. I have already discussed that the services of the wagon loaders were being utilised by the management for loading of coal from Malkera colliery in the railway wagons and these services rendered by the wagon loaders were for the business of the management and as such the management of Tisco is in fact the real employer of the wagon loaders. The management had the economic control over the wagon loaders subsistence and continued employment. The action of the management in stopping the wagon loading under the contractor has actually kept them idle. As discussed already it will appear that the management had made devices by introducing the contractor to appear that the wagon loaders were actually the labourers of the contractor but considering the facts and looking at the conspectus of factors governing employment it is clear that the real employer of the wagon loaders is the management of Tisco and not the intermediate contractors.

It has been submitted on behalf of the management that the case of Hussainbhai has been totally misunderstood as the full facts of the said case have not been disclosed in the reported decision. The management has produced the photo copies of the certified copies of the records of the case of Hussainbhai before the Tribunal and Kerala High Court. No doubt it appears from the facts of the said case that all the 29 workmen who were working in the factory manufacturing ropes were concerned in the said case and the said workers according to the management were hired by the contractors who had executed agreement with the management to get such work done and as such the management contended that the workmen were not his workmen but the contractors workmen. The record shows that the employer of the rope factory had no work force except the 29 concerned persons in the case and the so-called contractors were themselves the employees of the management. The workers had fixed hour of work, were getting leave with pay, annual bonus etc. It is submitted that all the elements of direct employment were present in the case of Hussainbhai and that there was nothing except a paper showing that there was an agreement with two contractors whereas in the present case there are about 1450 departmental workers working in Malkera colliery. In support of their contention the management have referred to the observation made in 1978 Supreme Court page 1410 where it is stated by their Lordships that "of course, if there is total dissociation in fact between the disowning management and the aggrieved workmen, the employment is, in substance and real-life terms by another. The management's adventitious connections cannot ripen into real employment". In the present case there is no total dissociation in fact between the disowning management of Tisco and the concerned workmen and there is positive evidence which I have already discussed above to show that the concerned workmen were in fact employees of the Tisco management. As such the above observations made by his Lordship is of no avail to the management. I am of the opinion that the principles decided in Hussainbhai's case equally is available to the concerned workmen to establish that the wagon loaders are the workmen of the Tisco management.

I have discussed above about the general case of the parties. I would now take up the case of the individual concerned workman. There are 85 concerned workmen in the case. WW-1 has stated in para-13 of his deposition that Sl. Nos. 17, 20, 76 and 79 of the annexure to the schedule of the order of reference have got employment. It has also been submitted by Shri S. Bose appearing on behalf of the workmen that Sl. No. 8 Shri Bijoy Bauri has been absorbed as miner/loader in the colliery and as such he is now no longer interested in the present reference. He has further submitted that Sl. No. 63 of the annexure to the schedule of order of reference has been absorbed as a Peon in one of the social welfare programme of Tisco, and he is also not interested with the present reference. So according to Shri Bose this reference is now only in respect of remaining 83 workmen.

It appears from the evidence of WW-1 that Sl. Nos. 1, 14, 16, 20, 24, 41 to 43, 45, 51, 63, 70 of the annexure to the schedule of order of reference are presently engaged

in making clay cartridges. He has stated that 20 out of the concerned workmen are engaged in making clay cartridges out of which he has specifically stated the names of 16 persons. WW-3 and WW-4 who are admittedly two of the concerned workmen have stated that they are engaged in making clay cartridges. WW-3 is named in Sl. No. 1 and WW-4 Bandhiya in Sl. No. 28 of the annexure to the schedule of order of reference. It appears that when the 20 concerned workmen were idle by stoppage of their work as wagon loaders they were engaged in preparing clay cartridges. The fact that they are engaged in clay cartridges cannot be used to stop them from raising the present dispute in which they are demanding that they are the employees of the management.

Ext. M-15 is the statement showing the attendance of the concerned workmen under different contractors in 1977 and 1978 prepared on the basis of the records. I see no reason to disbelieve the said statement in Ext. M-15 which has been prepared on the basis of the Bonus Registers of the contractors Ext. M-9 series and the payment-cum-attendance sheets of the contractors. On analysis of the statement it will appear that in 1977 Sl. Nos. 4 to 7, 9 to 13, 15, 17, 19, 20, 22, 26, 28, 30, 39, 42, 49, 55, 56, 59 to 61, 65, 68, 69, 73, 76 to 85 of the annexure to the schedule of reference had not worked for a single day in the year 1977. It will further appear from the said statement that Sl. Nos. 4, 5, 7, 9, 10, 17, 19, 20, 30, 36 to 39, 47 to 49, 55, 56, 58, 59, 61, 65, 66, 69 and 76 to 85 of the annexure to the schedule of reference had not worked for a single day, 1978. On a further analysis of the statement it will appear that Sl. No. 4, 5, 7, 10 to 13, 15, 17, 19, 20, 30, 39, 49, 55, 56, 59, 61, 65, 69, 76 to 85 (total 31 in Nos.) of the annexure to the schedule of reference did not work for a single day in the year 1977 and 78. The case of the workmen is that their work was stopped from 14-8-78 and as they were working till before that date they should be reinstated. The said assertion made on behalf of the workmen cannot apply in favour of all the concerned workmen. I have already indicated above that 40 of the concerned workmen did not work even for a day in the year 1978 and that as such they were not working as wagon loaders when the work of wagon loading was stopped by the management. It appears therefore that they had left the work of wagon loading long before the stoppage of the work by the management. Thus the concerned workmen whose Sl. Nos. have been stated above and had not worked for a single day as wagon loader in Malkera colliery in 1978 cannot be said to be the employees of the management at the time of stoppage of wagon loaders under the contractor and they cannot claim to be reinstated as the employees of the management.

In the result, I hold that the demand of the workmen of Malkera colliery of M/s. Tisco Ltd. that the 85 ex-wagon loaders named in the annexure to the schedule of order of reference should be reinstated is justified in respect of those workmen who had worked till 1978 but their demand for reinstatement of the 40 workmen whose Sl. Nos. have been indicated above and had not worked for a single day in 1978 does not appear to be justified and they cannot be reinstated in the employment of the management. As the concerned workmen other than the forty workmen (who had not worked in the year 1978) were working as wagon loaders for the management of Tisco till 1978, they were the workmen of the management of Tisco having the relationship of employer and employee and as such the management is directed to reinstate them in their employment except serial Nos. 8 and 63 who are already employed within one month from the date of publication of this Award. But as they have not worked for the management after the stoppage of their work they will not be entitled for back wages.

This is my Award.

I. N. SINHA, Presiding Officer.
[No. L-20012(113)/81-D.III (A)]

Dated: 19-11-86.

नई दिल्ली, 11 दिसम्बर, 1986

का.प्र. 4235 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) के अनुसूचन में, केन्द्रीय सरकार भारत कोकिंग कोल लि. के बरार कोक वर्क्स के प्रबन्धन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-12-1986 को प्राप्त हुआ था।

New Delhi, the 11th December, 1986

S.O. 4235.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bararee Coke Works of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government on the 1st December, 1986.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

Reference No. 71 of 1985

In the matter of industrial disputes under Section 10(1)(d) of the I. D. Act, 1947.

PARTIES

Employers in relation to the management of Bararee Coke Works of M/s. Bharat Coking Coal Limited and their workmen.

APPEARANCES

On behalf of the workmen.—Shri Lalit Berman, Vice President, United Coal Workers Union.

On behalf of the employers.—Shri B. Joshi, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 21st November, 1986

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012 (34)/85-D. III(A), dated, the 29th May, 1985.

SCHEDULE

"Whether the demand of United Coal Workers' Union that the delisted casual workmen named in the Annexure below should be employed as Badli Wagon loaders by the management of Bararee Coke Works of M/s. Bharat Coking Coal Limited, is justified? If so, to what relief are the concerned workmen entitled?"

ANNEXURE

1. Shri Bhuneshwar Bhuia
2. Shri Ram Prakash Rawat
3. Shri Ram Briksh Bhuia
4. Shri Dhukhan
5. Shri Raman Bhuian
6. Shri Ram Bilash
7. Shri Tuna Tanti
8. Shri Parmeswar Gope
9. Shri Ram Gope
10. Shri Yadu Bhuian
11. Shri Shukar Bhuian

12. Shri Uchit Ram
13. Shri Shru Tanti
14. Shri Bhim Gope
15. Shri Shatruhan Gope
16. Shri Madhu Gope
17. Shri Ramoutar Paswan
18. Shri Bihari Bhuian
19. Shri Mahendra Thakur
20. Shri Garib Ravidas.

The case of the workmen is that the 20 concerned workmen whose names are stated in the annexure to the schedule of order of reference were working in Bararee Coke works as a casual/badli wagon loaders from before the takeover and nationalisation of the plant. Even after nationalisation w.e.f. 27-12-72 the concerned workmen continued working in the Bararee Coke works in the same capacity. The management did not keep the concerned workmen on the casual/badli roll prepared by the management after the nationalisation although the concerned workmen continued as such. The management took a policy decision in 1976-77 by which the casual/badli workers whose names were not borne official roll were stopped from work and such workers are known as delisted casual/badli workers. Subsequently the management took another policy decision to take such delisted badli workers who had put in atleast 75 attendances in the block of four years i.e. between 1973 to 1976 on the roll of casual/badli workmen and to engage them in the available job. A number of casual/badli workmen were put on the roll in accordance with the above policy decision but the concerned workmen were not taken on the roll although they had put in 75 and more attendance between 1973 to 1976. The workmen have enclosed an annexure to the W.S. to show the attendance of the concerned workmen in the years 1973 to 1976 to show that they had all more than 75 days of attendance in the block of four years. The said attendance as shown in the annexure had been compiled by the management of Bararee Coke works in May, 1977 for the purpose of payment of annual bonus under the payment of bonus act and had been forwarded to the Asstt. Labour Commissioner, Govt. of Bihar in connection with the union's complaint regarding non-payment of bonus to the casual/badli workers. Subsequently when the union raised the issue of enrolment of the concerned workmen in the casual/badli roll the management refused to accept the demand on the ground that the concerned workmen had not put in attendance of 75 days and above in the block of four years between 1973 to 1976. During the conciliation proceeding the management produced a list of workmen with their attendance which were contrary to the earlier compilation made by the management in May, 1977 and was apparently a wrong compilation. The management have subsequently manipulated records. The demand of the workmen is based on the policy decision of the company which was admitted by the management of Bararee Coke plant in their W. S. submitted before the ALC(C), Dhanbad, vide letter dated 17-10-84. As the concerned workmen had put in 75 and more attendance in the block of four years between 1973 to 1976 are entitled to be enrolled as badli/casual workmen and should be employed as badli wagon loaders as per policy decision of the company in Bararee Coke Works.

The case of the management is that there was no scope for employment of badli wagon loaders at Bararee Coke plant as there is no siding for wagon loading. The management has sufficient existing man power and they cannot provide any employment to the concerned workmen. During the time of private owners wagon loading job used to be carried out by permanent and casual wagon loaders besides the contractor labour. The contractor labourers were not on the roll of the colliery. After the nationalisation of the Coal Mines and Coke plant the management abolished contract system. However the local management were authorised to engage any stranger on the job of wagon loading whenever the large number of wagons were placed on the siding when the permanent and casual wagon loaders were not in a position to load the wagons within the stipulated time. Some workmen were employed from

outside for the loading work. The employment of such loaders was discontinued in the year 1976 and the unlisted casuals were not permitted to work. Such group of wagon loaders are known as unlisted/delisted casual wagon loaders. The unlisted/delisted casual wagon loaders had put only a few days of work in a year and as such they had no claim for employment under the management. Due to unauthorised and authorised absenteeism the production in the mine fell from the normal and as such in the year 1978 the management decided to employ the delisted/unlisted casual wagon loaders having put in at least 75 days of attendance during the period from 1973 to 1976 as badli miners/loaders in place of permanent miners/loaders during the period of their absents. There was no stipulation in that circular to increase the strength of casuals by enrolling to delisted/unlisted casual. The concerned workmen have raised their claim on the allegation that they had put 75 days of attendance or more during the period from 1973 to 1976 and they should be employed as badli workmen. The persons raising the dispute are not genuine workmen and they had not put 75 days of attendance during the period 1973 to 1976. The delisted concerned workmen are not entitled to be employed as badli workmen and the management has withdrawn the earlier authorisation given to the local management for employment of casual workmen.

The only point for determination is whether the concerned workmen who were delisted casual workmen should be employed as badli wagon loaders by the management of Bararee Coke works.

The workmen have examined two witnesses and the management has examined one witness in support of their respective cases. The documents produced on behalf of the workmen have been exhibited as W-1 to W-3. The documents of the management have been marked as Ext. M-1 to M-5. It will appear from the W.S. filed on behalf of the management that they have disputed about the genuineness of the concerned workmen as having worked earlier in Bararee Coke works and the management also disputed the fact that they had put in 75 days or more attendance during the period 1973 to 1976. The management in para-6 of the W.S. has admitted that the local management was authorised to employ the members of delisted/unlisted casual wagon loaders having put in 75 days of attendance during the period from 1973 to 1976 as badli miners/loaders in place of permanent minor/loaders during the period of their absenteeism. The management have examined MW-1 Shri A. K. Chatterjee working as a typist in Bararee Coke works. He has proved bonus sheet Ext. M-1, M-2 and M-3. He has also exhibited the circular dated 4-8-80 and an extract of attendance Ext. M-5. In his cross-examination he has stated that he does not know about the working of the casual wagon loaders. He was also not aware as to who had prepared the bonus register Ext. M-1 to M-3. He has also stated that he had knowledge about the genuineness of the entries in Ext. M-1 to M-3. It will thus appear that this witness examined on behalf of the management is quite incompetent to say about the facts of this case. WW-1 Shri Ramnath Singh is the Asstt. Secretary of the United Coal Workers Union in the Bararee Coke plant who has raised the present industrial dispute. He has stated that he knew all the concerned workmen who were working as wagon loaders since after the nationalisation of 1971. He has further stated that they had been working as wagon loaders from 1971 to 1977. He has stated that he had filed a case before the ALC, Govt. of Bihar, Dhanbad in respect of non-payment of bonus concerning the concerned workmen and there after he had received the letter dated 16-6-77 from the ALC(C), Dhanbad, Ext. W-1. He has stated that Ext. W-1 was accompanied along with its annexure dated 11-5-77 and the said attached letter is marked Ext. W-2 and the attached list is marked Ext. W-3 in this case. He has further stated that he had raised a dispute in respect of the concerned workmen out of the said list Ext. W-3 who had completed 75 or more days of attendance in the block of four years between 1973 to 1976. He had raised the question after the decision of BCCL that all such workers who had attendance of more than 75 days in a block of four years will be taken as casual/badli workers. According to him the management had taken some of the loaders in employment according to the said policy

of BCCL but the management did not take the concerned workmen as casual/badli workmen as badli loaders. He has also stated that the management had filed his reply before the ALC(C), Dhanbad in the industrial dispute raised by him in respect of the concerned workmen and had admitted about the policy decision of B.C.C.L. He has denied in his cross-examination that the circular dated 4-8-80 was in respect of minor/loaders. WW-2 Paimeshwar Gope is one of the concerned workman. He has stated that since 1971 he was working in Bararee Coke works as wagon loader on casual roll along with the other concerned workmen. He has stated that they were employed to work as loader if the work was more than the work which could be done by the permanent wagon loaders. He has said that they had been paid bonus also by the management, after a case was filed by the union for payment of bonus under the payment of Bonus Act. He has stated that the payment of bonus was made to them in 1977. He has stated that all the concerned workmen had worked till 1976 and thereafter their work was stopped. According to him some of the casual wagon loaders who had been stopped work were taken back by the management on the basis of attendance who had completed at least 75 days of attendance but the management did not take the concerned workmen. He has stated that all the concerned workmen had attendance of 75 days or more during the period from 1973 to 1976. He has stated that the concerned workmen beside doing the work of wagon loading were also loading trucks and were also engaged in ovens. It will appear from his cross-examination that at present there is no railway siding at Bararee Coke works since 1977 and that the loading is done by the trucks. He has stated that all of those persons who are presently working in Bararee Coke works are permanent and no casual loaders were taken in the employment. Ext. W-1 is the letter dated 16-6-77 written by the ALC, Govt. of Bihar Dhanbad to the Asstt. Secy. Bararee Mazdoor Sabha in respect of payment of bonus to the casual workers by which a copy of letter No. 50222 dated 11-5-77 was sent to the Asstt. Secretary. The said attached letter is marked Ext. W-2 dated 11-5-77. Ext. W-2/1 dated 11-5-77 is the copy of the letter which was filed by the management and has been taken in evidence on behalf of the workmen as WW-2 did not bear the signature of any authority. We will therefore take Ext. W-2/1 into consideration. It appears from Ext. W-2/1 that the management of Bararee Coke plant had decided to make payment of the bonus to the casual workers. Ext. W-3 dated 11-5-77 is the photo copy of list of the payment of casual labourers from 1973 to 1976 in which the attendance of the concerned workmen from the year 1973 to 1976 has been shown by the Superintendent of Bararee Coke works. On perusal of the said list it will appear that all the concerned workmen had attendance of 75 days or more during the block of four years between 1973 to 1976. The management has not examined any competent witness to show that this list Ext. W-3 was not prepared by the Superintendent of Bararee Coke works. I do not find any reason to disbelieve the attendance shown in the list Ext. W-3. The management has further filed another list Ext. M-5 dated 17-10-84. This extract of attendance in Ext. M-5 is said to be based on the attendance register. The Attendance Register on the basis of which this list in Ext. M-5 has been prepared has not been produced by the management and the genuineness of Ext. M-5 therefore cannot be ascertained. The persons who had prepared list Ext. M-5 has also not come forward to depose in this case to show that the list prepared in Ext. M-5 was compared with the attendance Register by them. The management witness MW-1 has himself stated that he was no knowledge about the genuineness and correctness of the entries in Ext. M-1 to M-3. The persons who had prepared Ext. M-1 to M-3 has not been examined by the management and no explanation has been given as to why the competent persons have not been examined. Thus it is not possible to base any finding on the basis of such documents.

Ext. M-4 is the photo copy written by the General Manager, Personnel to all the Personnel Managers of all the collieries of BCCL. It will appear from this letter Ext. M-4 dated 4-8-80 that the management has decided that the collieries may take in their employment as badli loaders such of their delisted wagon loaders who had put in 75 days or more attendance during the period 1973 to 1976. It

appears therefore that the case of the concerned workmen is based fully on the basis of this letter Ext. M-4. It appears from the evidence of WW-1 and WW-2 and Ext. W-3 that all the concerned workmen had attendance of more than 75 days in the block of four years between 1973 to 1976 and as such their case was covered under the stipulation made in Ext. W-4. There is no reliable evidence to falsify the evidence of WW-1 and WW-2 which finds support from the management's paper Ext. W-3. I hold therefore that all the concerned workmen had completed more than 75 days of attendance as wagon loaders in Baratee Coke works between the block of four years between 1973 to 1976 and as such they may be taken in the employment as badli loaders. Even if loading work on the wagon had been stopped, the services of the concerned workmen may be utilised as badli loaders in the loading of trucks.

In view of the discussions made above I hold that the demand of the United Coal Workers Union that the delisted casual concerned workmen named in the annexure to the schedule of order of reference should be employed as badli loaders by the management of Baratee Coke works of M/s. B.C.C. Ltd. is justified.

This is my Award.

Dt. 21-11-86.

J. N. SINHA, Presiding Officer
[No. L-20012/34/85-D.III(A)]
A. V. S. SARMA, Desk Officer

नई दिल्ली, 10 दिसम्बर, 1986

का.अ. 4236 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) के धारा 17 के अनुसरण में, केन्द्रीय सरकार, खादी ग्राम उद्योग भवन के प्रबन्धन में सम्बद्ध नियोक्ताओं और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली, के पंचपाट को प्रकाशित करता है, जो केन्द्रीय सरकार को 20-11-86 को प्राप्त हुआ था।

New Delhi, the 10th December, 1986

S.O. 4236.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, New Delhi, as shown in the Annexure in the industrial dispute between the employers in relation to the anagement of Khadi Gramodyog Bhawan and their workmen, which was received by the Central Government on the 20th November, 1986.

BEFORE SHRI G. S. KALRA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,

NEW DELHI

I. D. No. 169/83

In the matter of dispute between :

Shri Bhim Singh Bajeli through The General Secretary,
Khadi Gramodyog Bhawan, Regal Building, New
Delhi.

Versus

The Manager Khadi Gramodyog Bhawan, Regal
Building, New Delhi.

APPEARANCES :

Shri D. S. Vohra with the workman,

Shri Jagat Arora—for the Management,

AWARD

The Central Government in the Ministry of Labour vide its notification No. L-42012(11)/82-D.II (B) dated 14th February, 1983 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the employers in relation to Khadi Gramodyog Bhawan, New Delhi in not placing Shri Bhim Singh Bajeli, Clerk in the scale of 330—560 which has been allowed to his juniors is justified ? If not, to what relief he is entitled ?"

2. The workman in the statement of claim has stated that he joined the service of the respondent w.e.f. 14-11-56 and he was permanently absorbed w.e.f. 1-5-57. During his long service till date he had not been given any promotion while his juniors had been promoted. He alleged that he had been denied his due promotions on account of his active participation in trade union activities. As an example he cited the cases of 9 employees alleged to be junior to him who had been given the promotions namely : S/Shri Raj Kumar Kundra, Pancham Singh, Mohan Dass Tandon, Mahendra Nath Rai, Jata Shankar Tewari, Markanday Pathak, Gopi Lal Verma, Jagmohan Singh and Jagdish Narain. Hence the workman prayed that he may be given due promotions and may be allowed the scale of Rs. 60—140 from 1-10-58, 75—175 from 1-10-59, 125—255 (revised 175—350) w.e.f. 1-1-60, Rs. 330—560 w.e.f. 1-10-63 and Rs. 425—700 w.e.f. 12-6-75.

3. The Management in its written statement has raised the preliminary objections that the workman has claimed better seniority/promotion rights over the nine persons mentioned in para 9 of his claim statement and the reference cannot be adjudicated unless those persons were made parties to the dispute; that the reference is bad and legally not valid as earlier to the present reference a similar dispute was raised by the workman which was refused reference by the government vide order dated 20-9-80 and the present reference has been made after the refusal of the first reference without giving due and proper opportunity to the Management which is violative of the principles of natural justice; that the alleged dispute does not constitute an industrial dispute within the meaning of section 2(k) as the same has neither been espoused nor properly raised on behalf of the workman and that the claims made under the present reference are much too late and deserve no consideration. On merits it was submitted that Shri Bajeli was appointed in the godown of the Bhawan vide letter dated 1-5-57 as class IV employee in the scale 40—90 on a temporary basis and subsequently w.e.f. 1-12-57 he was placed in the scale of Rs. 50—110 and he continued to be class IV category, w.e.f. 1-12-59 he was placed under scale of Rs. 60—140 as clerk w.e.f. 1-1-73 options were asked for revised pay scales and Shri Bajeli gave his option to be placed in the scale of Rs. 110—180 in terms of standing order dated 31-10-73 vide option dated 18-12-73 and in terms of the option exercised by him his pay in the revised scale was fixed at Rs. 155 and his designation was that of L.D.C. Subsequently the pay scale of L.D.C. was revised to Rs. 260—400 and throughout this period the workman continued to work as L.D.C. In view of these facts the Management had throughout been fair and had given all due increases as were applicable to the cadre of L.D.C. on which post Shri Bajeli was working. The Management has always been following the regulations and standing orders issued from time to time and there was no discrimination against Shri Bajeli. With regard to the nine persons specifically mentioned by the workmen in para 9 of his claim statement it was averred that S/Shri Raj Kumar Kundra, Mohan Dass Tandon, Jata Shankar Tewari, Jagmohan Singh and Jagdish Narain Tripathi were initially appointed in higher scale of pay than that of Shri Bajeli while S/Shri Pancham Singh and Mohinder Singh were appointed in sale section and were working as scales men. As regards S/Shri Markanday Pathak and Gopi Verma it was stated that they alongwith Shri Bajeli were appointed on the same day and as per rules Shri Pathak and Verma became senior than Shri Bajeli. The workman is not entitled to the scale of Rs. 330—560 and the claim of the workman for Rs. 425—700 is not tenable in view of the terms of reference and is outside the scope of reference.

4. First of all the preliminary objections raised by the Management may be taken up. As regards the non-joinder of the nine persons mentioned an example in para 9 of the claim statement the workman has not prayed for the revision of these persons nor has he claimed any adverse order against any of those persons but has prayed for his own promotion which according to him has been unjustly denied to him by the Management. The dispute of the workman is

with the Management and not with those persons. Hence the persons junior to the workman are not necessary parties and this objection is rejected. As regards the second objection regarding not being afforded sufficient opportunity before the reference was made after its earlier refusal, the Management has not produced any evidence to show that it was not given adequate opportunity before making the present reference. On the other hand the workman has stated in his affidavit that when the reference was not made by the Central Government in the first instance, the workman's Union again raised the dispute before the A.L.C. (vide Ex. W-38) in which the Management was given sufficient opportunity to present its case in the conciliation proceedings and the present reference was made only after hearing both the parties. If the Management was not given sufficient opportunity it could have summoned the record from the concerned authorities but nothing of the sort has been done. Hence a presumption arises that it had been given adequate opportunity before the reference was made. The authorities cited by the Management are distinguishable and are not applicable to the present case. Hence this objection is also over-ruled. With regard to the third objection of no proper espousal of the present dispute the Management has been clearly proved wrong by the documents Ex. W-12, W-104, W-92, W-93-A, W-94-B, W-89-B, W-81, W-21, 22, 23 etc. that the case has been espoused properly by the Union. Moreover the present dispute is squarely covered by the definition of Industrial Dispute as given in Section 2(k) of the I. D. Act, 1947. Hence there is no basis in this objection of the Management. The last objection regarding the claim of the workman being too belated, is also without any substance because it has been amply shown that the workman has been continuously representing to the Management for redressal of his grievance and the Management finally rejected the representation of the workman on 13-6-79 (See Ex. W-93 and M-9) after which the workman raised the Industrial Dispute.

5. On merits the first point of dispute between the workman and the management is that according to the workman he joined the service of the Bhavan on 14-11-56 whereas the management has contended that his initial appointment was w.e.f. 1-5-57. The first thing to be noted is that the workman had consistently been representing that he had joined the service of the Bhavan on 14-11-56 even much before the present industrial dispute was raised and, therefore, it cannot be said to be an after-thought (see Ex. W-17, 19 and 32). Moreover, even according to the documents of the Management Ex. M-8, which according to the Management is letter of initial appointment of the workman, it has been clearly mentioned that on termination of his service from the All India Khadi and Village Industry Board, Bhim Singh Bajeli was informed that he had been appointed on the same pay with same allowances if any as he was getting while in the service of the All India Khadi and Village Industry Board on 31-3-57. This letter clearly goes to show that the workman was in service of the predecessor organisation All India Khadi and Village Industry Board at least on 31-3-57. It is significant to note that in its written statement the Management has evaded to give a categorical denial that the workman was in service with the respondent on 14-11-56. Hence a presumption can be drawn that the workman was in service on 14-11-56 as claimed by him. It is accordingly held that the workman was in service with the respondent w.e.f. 14-11-56.

6. With regard to the main question that many officials junior to the workman had been given promotion and higher scales of pay in preference to the workman, the Management has chosen to give specific replies only in respect of nine officials mentioned in para 9 of the claim statement ignoring the fact that those nine officials were mentioned only as examples and did not contain a comprehensive list of the junior officials who were allegedly given promotion in higher scales of pay in preference to the workman. The Management has divided those 9 officials into three categories. The first category consists of S/Shri Raj Kumar Kundra, Mohan Dass Tandon, and Jata Shankar Tiwari, Jagmohan and Jagdish Narain Tripathi, in whose case it has been pleaded that these officials had been initially appointed in the higher scale of pay than Shri Bajeli and, therefore, these persons cannot be said to be junior to the workman even though they joined subsequent to the date of joining of service of the workman. On going through the seniority list contained in Ex. W-3 which is admitted to be correct by the

Management and reliance has been placed by the workman, it is seen that Raj Kumar Kundra was appointed on 1-4-58 in the scale 50—70, Mohan Dass Tandon was appointed on 1-11-58 in to scale 50-70, Shri Jata Shankar Tiwari was appointed on 1-11-58 in the scale 50—70; Shri Jagmohan Singh was appointed on 15-6-60 in the scale 60—90 and Shri Jagdish Narain Tripathi was appointed on 27-2-61 in the scale 60—90. According to the Management itself the workman was given the scale of 50—110 w.e.f. 1-12-57. The contention of the Management of initial appointment in higher scale may have had some force if the initial appointment in the higher scale was earlier to 1-12-57. However, it is seen that the workman Bhim Singh Bajeli was already holding the scale of Rs. 50—110 w.e.f. 1-12-57 whereas Raj Kumar Kundra joined the service on 1-4-58 in the scale 50—70, Jata Shankar Tiwari on 1-11-58 in the scale 50—70, Mohan Dass on 1-11-58 in the scale 50—70. Thus the workman was clearly senior to these three persons. Again according to the Management itself the workman was given the scale 60—140 w.e.f. 1-12-59 whereas—Jagmohan Singh joined service on 15-6-60 in the scale 60—90 and Jagdish Narain joined service on 27-2-61 in the scale 60—90. Hence the workman was clearly senior to these persons also in the scale 60—90. The second category made out by the Management is that of S/Shri Pancham Singh, Mohinder Nath Rai in whose case it is contended that they were appointed in the sale section and were working as salesmen whereas the workman was appointed only as a helper and is at present working in the clerical section. This contention of the Management again is without any substance because the document Ex. W-83 clearly reveals that no separate cadre had been carved out for sales side and the clerical side as on 30-4-72, as is reflected in W-83. Thus it is seen that Shri Ram Sarup who had been initially appointed as clerk on 27-12-56 in scale 100—220 was appointed as Incharge Godown I on 4-6-64 in scale 200—280. Similarly Shiv Narain Mishra initially appointed as clerk on 5-8-55 in scale 60—140 was appointed on 16-6-63 as Incharge supply in the scale 175—245. Shri Jai Parkash Gupta who was initially appointed as helper on 13-4-57 in scale 50—110 was appointed as Assistant Decorator on 25-4-63 in scale 150—220. Shri R. L. Verma who joined as clerk on 17-12-56 in scale 75—115 was appointed on 1-6-63 as Incharge Export Section in scale 150—220. Shri Chand Narain who joined initially as helper on 1-12-55 in scale 40—60 was appointed on 1-6-58 as Senior Salesman in scale 125—185. Similarly Raj Nath Tiwari who joined as helper on 3-4-56 in scale 40—60 was appointed as Senior Salesman in the scale 125—185, Raj Kumar Aggarwal who joined as clerk on 1-3-58 in scale 60—90 was appointed on 1-9-63 senior salesman in scale 125—185; Mohan Dass Tandon who joined as helper on 1-11-58 in the scale 50—70 was appointed as salesman in grade 100—150. Shri R. D. Chaurasia who joined as clerk on 1-5-58 in scale 60—90 was appointed on 3-4-60 as Salesman in scale 75—115. Similarly Trilok Singh who joined as clerk on 1-4-59 in scale 60—90 was appointed on 12-4-60 as Salesman in scale 75—115. Again Shri Ishwar Dutt who joined as salesman on 18-8-62 in scale 60—90 was appointed on 23-8-63 as clerk in scale 75—115. Lal Bahadur Pandey who joined as helper on 1-4-58 in scale 40—60 was appointed on 26-4-60 as salesman in grade 60—90. Such examples can be multiplied. But it is abundantly clear that there was no separate cadre for salesman, helpers or clerks and the posts were inter changeable and there were different scales of pay for similar posts. Hence the contention of the Management that the workman who had been given the same grade as S/Shri Pancham Singh Gosain, Mohinder Nath Rai earlier to these officials can not be regarded as senior to them because those officials had initially joined in the Sales Section and were working as salesman is without any substance. The third category is composed of S/Shri Markandey Pathak and Gopi Lal Verma who were appointed on the same date as Shri Bhim Singh Bajeli workman and the contention of the Management in their case is that S/Shri Markandey Pathak and Gopi Lal Verma became senior to Shri Bajeli as per rules. Although the rule was not mentioned in the written statement, subsequently at the time of arguments it was clarified that S/Shri Markandey Pathak and Gopal Lal Verma were senior in age than Shri Bajeli and therefore, they were made senior to Shri Bajeli. It is seen from Ex. W-83 that the date of birth of Markandey Pathak is 10-4-32 and that of Gopi Lal Verma 10-11-1935 whereas the date of birth of Shri Bajeli is 19-3-1939. It is an accepted rule that when number of employees join service on the

same day those older in age are placed senior to those younger in age. Hence this contention of the Management in case of S/Shri Markandey Pathak and Gopi Lal Verma is correct and it is held that S/Shri Markandey Pathak and Gopi Lal Verma are not junior to Shri Bajeli. Here it may be noted that it was conceded by the workman at the time of arguments that S/Shri Markandey Pathak and Gopi Lal Verma had joined the service on the same day as Shri Bajeli.

7. At the time of arguments it was contended on behalf of the Management that Shri Bhim Singh Bajeli was not found suitable for higher appointments and, therefore, was not given the promotion. However, this was not pleaded in the written statement and, therefore, is beyond the pleadings and this point cannot be allowed to be raised at this stage. Moreover, this argument is only an after thought because in all the earlier correspondence it was never the case of the Management that the workman had not been found suitable for the higher appointments. It was not the plea of the Management in its specific reply in respect of the nine persons mentioned in para 9 of the claim statement. It was not mentioned that the Management did not consider the workman suitable for promotion and the grounds taken were either initial appointment in the higher scale or appointment in sale section or seniority in age. Similarly while rejecting the demand notice of the Union in the document Ex. W-93 the management had stated that all the employees indicated in the demand notice were appointed in higher grades and therefore, they could not be said to have superseded the workman. In this letter the Management nowhere stated that the workman was not found suitable for promotion.

8. Again it was contended by the Management that the workman was given option to opt for new scales w.e.f. 1-1-73 and the workman gave his option to be placed in the scale 110—180 in terms of standing order No. 1000 dated 31-10-73 vide option dated 18-12-73 and, therefore, he was not left with any grievance. This argument of the Management is facile because by giving his option for a particular scale of pay the workman had nowhere indicated that he was giving up his grievance regarding his supersession by his juniors in matters of promotion and pay scales. Ex. W-107 is the standing order No. 508 dated 15-12-64 in which the promotion policy was laid down by the Khadi and Village Industry Commission. The relevant provision in the present case is in para 4(i) (ii) and (iii) which are reproduced below :—

"4. Subject to the above considerations, regarding promotion policy, the Commission has decided as follows :

- (i) All Class IV employees who have passed S.S.C. Examination or its equivalent examination or Karyakarta course or a course in Khadi or Village Industries may be promoted to Class III vacancies provided that they have put in a minimum of one year's service in the Commission and subject to there being no adverse remarks in their confidential reports. In the case of Harijans, Scheduled Castes and Scheduled Tribes, the minimum period of one year's service may not be insisted upon.
- (ii) L.D.C. should be promoted to posts of U.D.C. on the basis of their seniority. However, the confidential reports should be gone into carefully at the time of selecting persons for promotion and any person who has adverse remarks in his confidential reports should not be promoted. If necessary, the D.S.C. may interview the person concerned or the officers writing the confidential reports.
- (iii) A similar policy as in the case of promotion of L.D.Cs to the posts of U.D.C should be followed in regard to promotion of U.D.Cs to the posts of Asstt. Supdt."

9. It is clear that the promotion from L.D.C. to U.D.C. and from U.D.C. to Assistant Superintendent is to be based mainly on seniority and confidential reports. In the case of Shri Bhim Singh Bajeli it is not at all alleged that he had earned any adverse confidential reports. Therefore, he was to be promoted on the basis of his seniority and there has been violation of the promotion policy of the respondent in his case.

10. In the light of the discussion made above, it is abundantly clear that the workman has been badly discriminated against in the matter of promotion and pay scales in as much as many persons junior to him have been given promotions and higher scales of pay. According to statistics as available in Ex. W-83 on the file, Jagmohan Singh at Sl. No. 69 who was appointed on 15-6-60 in grade 60—140 and who is proved to be junior to the workman as the workman was given the grade 60—140 w.e.f. 1-12-59, was given the grade 530—560 w.e.f. 15-12-62 and the grade 425—700 w.e.f. 12-6-75. Therefore, the workman is clearly entitled to the grade 330—560 w.e.f. 15-12-62. It has been argued by the Management that the reference relates to only grade 330—560 and to no other grade. This argument of the Management must prevail and no award is given in respect of other grades claimed by the workman. The workman will also be entitled to full arrears. He is also awarded Rs. 500 as costs.

Dated : 29th October, 1986.

Further it is ordered that the requisite number of copies of this Award may be forwarded to the Central Government for necessary action at their end.

G. S. KALRA, Presiding Officer
(No. I-42012/11/82-D.II (B))

का.अ. 4237—औद्योगिक विवाद अधिनियम,
1947 (1947 का 14) की धारा 17 के अनुसरण में,
केन्द्रीय सरकार इंटरकोच फैक्टरी, मद्रास के प्रबंधन से
सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में
निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, मद्रास,
के पंचाट को प्रकाशित करता है, जो केन्द्रीय सरकार को
24-11-86 को प्राप्त हुआ था।

S.O. 4237.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of Industrial Tribunal, Madras as shown in the Annexure in the industrial dispute between the employers in relation to the Management of Integral Coach Factory, Madras and their workmen, which was received by the Central Government on the 24th November, 1986.

BEFORE THIRU FYZEE MAHMOOD, B.Ss., B.L.,
PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
TAMIL NADU, MADRAS.

(Constituted by the Central Government)

Monday, the 10th day of November, 1986

Industrial Dispute No. 61 of 1986

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workmen and the Management of Integral Coach Factory, Madras-38).

BETWEEN

Thiru M. Natarajan, C/o Thiru T. P. Thiruppal,
No. 5123, Vasantha Garden Street, Madras-600023

AND

The General Manager, Integral Coach Factory, Madras-600038.

REFERENCE :

Order No. I. 41012/47/85-D. II(B), dated 25-8-1986 of the Ministry of Labour, Government of India, New Delhi.

This dispute coming on this day for final disposal in the presence of Thiru T. P. Elisha Thiruppal, authorised representative for the Petitioner-workman upon perusing the reference, claim statement and all other material papers

on record and the Management being absent and set *ex parte* this Tribunal made the following.

AWARD

This dispute between the workmen and the Management of Integral Coach Factory, Madras-38 arises out of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India in its Order No. L. 41012/47/85-D. II(B), dated 25-8-1986 of the Ministry of Labour for adjudication of the following issue :

Whether the action of the management of Integral Coach Factory, Madras, in removing Shri M. Natarajan, HSA/Gr. I Welder from services with effect from 16-6-83 is legal and justified ? If not, to what relief and from what date the workman is entitled to ?

(2) Parties were served with summons.

(3) The Petitioner-Worker was represented by authorised representative. The Management was absent and not represented.

(4) The Petitioner-Workman filed claim statement on 3-10-1986. The Management did not file their counter statement.

(5) Today, when the dispute was called, the Respondent-Management was absent and set *ex parte*. Petitioner Thiru M. Natarajan was examined as W.W.1. Exs. W-1 to W-28 were marked on his behalf.

(6) On the evidence adduced, an award is passed directing the Management to reinstate the Petitioner in service with effect from 17-6-1983 with arrears of back wages, continuity of service and other attendant benefits. No costs.

Dated, the 10th day of November, 1986

INDUSTRIAL TRIBUNAL

WITNESSED EXAMINED

For workmen :

W.W.1—Thiru M. Natarajan.

For Management : None.

DOCUMENTS MARKED

For workmen :

Ex. W-1/6-10-80—Charge sheet to W.W.1. (True copy).

Ex. W-2—Typed copy of application by W.W.1. for Kalasi post.

Ex. W-3—True copy of Record Sheet of W.W.1.

Ex. W-4/3-8-79, 22-9-79—True copy of letter from the Management to District Educational Officer (North) Madras-7 with reply endorsement.

Ex. W-5/19-11-79—True copy of statement of W.W.1 before the Chief Vigilance Inspector.

Ex. W-6/28-7-80—The copy of letter from Tahsildar, Madras-7 to the General Manager (Vigilance), I.C.F., Madras.

Ex. W-7/20-8-81—True copy of letter from W.W.1 to the Management seeking permission to take extract of the Community Certificate.

Ex. W-8/25-9-81—Reply to Ex. W-7.

Ex. W-9/4-2-76—True copy of Community Certificate issued to W.W.1 by the Tahsildar, Purasawalkam-Perambur.

Ex. M-10/3-10-81—True copy of letter from W.W.1 to the Management.

Ex. W-11/13-11-81—Reply to Ex. W-10 by the Management permitting to inspect the document.

Ex. W-12/26-11-81—True copy of letter from W.W.1 to the Management for inspecting additional documents.

Ex. W-13/14-12-81—Reply to Ex. W-12.

Ex. W-14/4-1-82—True copy of letter from W.W.1 to the Management.

Ex. W-15/26-2-82—Reply to Ex. W-14.

Ex. W-16/17-3-82—True copy of letter from W.W.1 to the Management.

Ex. W-17/6-4-82—Reply to Ex. W-16.

Ex. W-18/5-5-82—True copy of letter from W.W.1 to Management.

Ex. W-19/17-6-82—Reply to Ex. W-18 (True copy).

Ex. W-20/17-6-82—Order by Works Manager appointing the Enquiry Officer. (True copy).

Ex. W-21/6-4-82—True copy of letter from the Management to W.W.1.

Ex. W-22/14-5-83—Statement given by W.W.1 in the enquiry. (true copy).

Ex. W-23/13-6-83—True copy of removal order issued to W.W.1.

Ex. W-24/24-5-83.—True copy of findings of the Enquiry Officer.

Ex. W-25/18-7-83—True copy of Appeal from W.W.1 to the Additional Chief Mechanical Engineer/Shell, I.C.F., Madras-38.

Ex. W-26/28-9-83—Orders passed in the Appeal Petition.

Ex. W-27/25-10-83—True copy of Review Petition submitted by W.W.1 to the Chief Mechanical Engineer.

Ex. W-28—True copy of Enquiry Proceedings.
For Management : Nil.

THIRU FYZFE MAHMOOD, Industrial Tribunal
[No. L-41012/47/85-D.II(B)]

का. आ. 4238.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, सहायक अभियन्ता, माइक्रोवेव के प्रवन्धन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-11-86 को प्राप्त हुआ था।

S.O. 4238.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Kanpur, as shown in the Annexure in the industrial dispute between the employers in relation to the management of Assistant Executive Microwave and their workmen, which was received by the Central Government on the 24th November, 1986.

BEFORE SHRI R.B. SRIVASTAVA PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
CUM-LABOUR COURT, KANPUR, UTTAR PRADESH

Industrial Dispute No. 51 of 1986

In the matter of dispute between :

Shri Pushkar Singh

Secretary Indian Telephone Karmchhari Sangh Line

Staff & Group D Dehradun, Uttar Pradesh.

AND

The Assistant Executive Microwave Maintenance Telephone Exchange Building Dehradun-Uttar Pradesh.

APPEARANCE :

Shri P.L. Singh for the workman

Shri H.P. Shukla for the Management

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-40912/10/85(D. II(B) dt. 27th February, 1986 has referred the following dispute for adjudication to this Tribunal cum Labour Court for adjudication ;

"Whether the action of the Assistant Executive Microwave, P & T Department in terminating the services of Shri Pushkar Singh is legal and justified? If not, to what relief the concerned workman is entitled?"

2. The case of the applicant is that he was working under the Assistant Engineer Microwave Telephone Exchange as casual labour on daily rated basis from 7-12-82 but suddenly on 3-1-85 his services were terminated on verbal instruction/orders by J.E. UHF Section/Station and in this way the workman has completed 732 days from the date of his appointment till the date of his termination. He has further averred that according to law the employees who have completed more than 240 days of work can not be terminated without complying the relevant provisions of the industrial dispute act and the management has terminated the services of the workman without any notice, notice pay or retrenchment compensation which is violative of the industrial dispute act. The workman represented to the A.E. Microwave Dehradun for his termination and re-employment on 17-1-1985 photo copy of that application is on record. The workman was again re-employed by A.E. Microwave, Dehradun, on 1-11-85 and in this way there a gap for about 10 months during the intervening period i.e. 3-1-85 to 1-11-85 and when the workman re-employed and requested about continuity of his previous services he was told by A.E. that when there was a gap for more than six months, previous services can not be counted in seniority. He has further averred that in his place one other person was engaged and had he been re-employed at that place his seniority could not be affected. In the end it is prayed that the seniority of the intervening period may be granted and counted in service.

3. The workman alongwith his claim statement his filed letter dt. 17-1-1985 addressed to Assistant Engineer Microwave Telephone Exchange, representing his termination order. Paper No. 2 is letter dt. 30-1-85 addressed to A.L.C. Central. Paper No. 3 is letter dt. 24-5-85 addressed to workman Pushkar Singh and is sent by A.E., paper No. 4 is a chart of working days of workman which has duly been verified and signed by the Assistant Executive Microwave, paper No. 5 is photo copy of muster roll showing the name of person Mohd. Taiyab who has been appointed in place of senior workman after their termination, paper No. 6 is a letter written by A.E. addressed to the Director Telephones Lucknow informing that workman Mohammad Taiyab and one other person have been engaged in the month of July 85.

4. The management contested the petition of the workman on the ground that the workman was engaged for special nature of work by AEM Dehradun and has completed 729 days of work on daily rated labour and note as regular employee. It is further averred that the regular employees were appointed when there was any post for that and further that the post of regular employee is filled by Divisional Engineer Dehradun after being found medically fit and on the basis of seniority and the workman at this stage can not claim that he has completed 729 days hence he should be treated as regular employee. The workman was engaged by the department for special work for six months and he was ceased to work as per rules of the departments. The workman was ceased to work on 1-1-85 and he is not entitle to pay for the intervening period as he has not worked during that span and the applicants application regarding regularisation had been sent to Divisional Engineer vide letter dt. 20-12-85 and as the workman was ceased to work as per rules of the department he is not entitled to relief as claimed by him.

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5. Workman has filed letter of Asstt. Executive Microwave dt. 20-9-85 as annexure 10 which is admitted to the management. AEM Dehradun wrote to Asstt. Engineer Carrier Dehradun regarding re-employment of workman as casual labour. In this it is admitted that workman has worked for 758 days at Dakpathar UHF Station and as per letter dt. 26-6-85, the Divisional Secretary is to be taken into consideration for re-employment of retrenched DRMs therefore, Shri Pushkar Singh amongst the retrenched DRMs who were retrenched vide DET EX LM-2 letter No. DECXM-2-II/E-14/15, dt. 23-11-84 consequently he had requested for re-employment of the workman.

6. On behalf of the Management Shri O.S. Saxena filed his affidavit and it is admitted by him that the workman was employed on 7-12-82 and worked for 729 days upto 31-12-84 and was removed from 1-1-85 due to reduction of casual strength and was re-employed on availability of the post on 1-11-85.

7. In cross examination he admitted that the workman was junior most in the sub division but has no knowledge if he was junior most in the division as the divisional seniority is not maintained in sub division. He further stated that as casual labour are recruited by sub-division hence it is sub division cadre. He has admitted that an per record one Satish Kumar was kept for 20 days as casual labour in lieu of casual regular mazdoor in the absence of workman in the month of June 85 after first 10 days similarly in the month of July 85 one Taiyab casual Mazdoor was kept for 8 days only in the absence of casual labour. He further stated that intimation was given to the workman Shri Pushkar Singh to come and work at his place but did not turn up to work. He has further admitted that the representation of the workman was sent to the General Manager Maintenance for consideration and disposal of the same. In the end he stated that he was offered one months pay at the time of termination but corrected himself that the same was offered at the LC stage but the workman did not accept the same and that no retrenchment compensation was given to him.

8. Another management witness Shri D.K. Rawat filed his affidavit stating facts as narrated by Shri O.S. Saxena but the workman did not cross examine this witness.

9. Workman in his own affidavit has reiterated his stand of the claim statement and stated that he had worked for more than 240 days in one calendar year, that a number of casual labours were promoted to category (ii) and (iii) but thereafter the management formed strict rules that retrenchment of casual labour to be done only on divisional seniority basis and re-employment also should be done out of retrenched workman on the seniority basis. That Asstt. Executive Microwave Dehradun terminated the services of the workman on 2-1-85 w.e.f. 1-1-85 without notice or notice pay in lieu thereof. The workman has however, averred that the GMM New Delhi ordered vide letter dt. 26-6-85 that only divisional seniority should be taken into consideration of daily rated casual labour for retrenchment and re-employment. In the end the workman reiterated that juniors namely Shri Taiyab and others were employed after his termination.

10. In cross examination he admitted having worked for 29 days in Kumbh Mela under SDO Phones at Hardwar. He further admitted to have worked for 3 or 4 months under Punjab Lime Factory Dehradun. He requested that his services be retained under S.D.O. Phones Kumbh Mela but was replied that as the entire set up was temporary hence he was being terminated. He has denied the management's suggestion that AEM Dehradun had intimated that one months pay in lieu of notice was payable to him and he may collect the same from the office.

11. It is admitted that the workman had worked from 7-12-82 to 31-12-84 and the dispute is whether he was terminated from 3-1-85 as alleged by the workman or from 1-1-85 as alleged by the management. In all eventuality it is not disputed that during this span the workman had worked for more than 240 days in span of one year and had in all put in services of 729 days. The management admits that notice pay was tendered at the A.L.C. stage when the workman had already raised the industrial dispute u/s 25F of the Act. The notice pay and retrenchment compensation has to be done at the time of retrenchment and the same is not legally possible

unless the same is done, thus after termination if one months notice pay was tendered that will not legalise the illegality already committed. If the workman had acquired temporary status for having continuously worked, the management should have maintained a seniority list on the divisional basis and only the junior to the workman should have been retrenched. The management had admitted that they had no knowledge about the seniority of the workman at the divisional level but as regards sub division level he alongwith all junior were terminated. The illegality being there, it is argued that he should be reinstated with full back wages excluding wages for 29 days which he get during re-employment in Kumbh Mela. As regards employment in Lime Stone Company Da Pathan Dehradun it can not be called to be a gainfull employment as there he employed as labour for his livelihood, it has been argued on behalf of the management after admitting that the workman had worked for 240 days and that payment of one months pay was tendered at later stage before ALC, that no recruitment is done by the management and the same is done by the maintenance section and the assistant executive Microwave employs casual labour according to exigencies of work and that no seniority list is maintained. Under Industrial Disputes Act rule 2(g) provides that in relation to an industry under authority of a department of the Central Government, the officer incharge of the industrial establishment shall be the employer in respect of that establishment. Telecommunication is an industry carried on by the department of Central Government and the General Manager Telecommunication U.P. Circle is employer for appointment for regular employment as well as casual employees though he may authorise one of his Asstt. Executive to employee casual labour in any of the sub division. If this casual labour employed by AE continued to work in regular way for months together which show that they are in continuous service for a year, they acquired temporary status and in that eventuality a seniority list of such temporary employees with division as unit should have been maintained and termination and retrenchment should have been made from that list on the principles of last come first go.

12. In the instant case the provisions of section 25-G and H were also contravened in this way. The workman has been re-employed by the department against newly created post since 1-1-85. Management in its letter dt. 12-2-85 observed that casual labour who have served the department for at least total period of 240 days in a year and whose engagement is not considered necessary shall be served a notice of one months before termination of their services. This is irrespective of section 25F directives of their own department that one month notice in lieu of notice pay should be preceded termination.

13. Thus in any view of the matter the termination of the workman w.e.f. 1-1-1985 for noon or 31-12-84 after noon is illegal for non compliance of section 25F G and H of the act and I consequently hold that the action of the management is not legal and justified, the result is that he will be deemed to be continuing in service and will be entitled to full back wages except for the wages received for 29 days, when he was in active service of the management in Kumbh Mela at Haridwar.

14. I, therefore, give my award accordingly.

R.B. SRIVASTAVA, Presiding Officer

[No. L-40012/10/85-D. II (B)]

S.O. 4239.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal Kanpur, as shown in the Annexure in the industrial dispute between the employers in relation to the management of Northern Railway, Lucknow and their workmen, which was received by the Central Government on the 24th November, 1986.

BEFORE SHRI R. B. SRIVASTAVA PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL CUM LABOUR COURT, KANPUR

Industrial Dispute No. 229/83

In the matter of dispute between :

The Divisional Working President, URKU, Northern
Railway C/o. 4, Naveen Market, Kanpur.

AND

Civil Engineer (Construction), Northern Railway, Char-
bagh, Lucknow.

APPEARANCE :

Shri B. D. Tewari for the workmen.

Shri K. C. Janhari for the Management

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-40011(4)/82-D. II(B), dated 23rd August, 1983, has referred the following dispute for adjudication to this Tribunal :

Whether the action of the Railway Administration in terminating the services of the seven casual Labours under Civil Engineer (Const) Northern Rly., Charbagh Lucknow as per annexure from the dates mentioned against each is justified ? If not, to what relief the concerned workmen are entitled ?

ANNEXURE

1. Shri Hari Narain 17-3-1982.
2. Shri Hirday Ram 11-2-1982.
3. Shri Ram Lakhan 14-4-1982.
4. Shri Rajwant Singh 14-4-1982.
5. Shri Phool Chand 14-4-1982.
6. Shri Shabjeet 14-4-1982.
7. Shri Bhushan Lal 14-6-1982.

2. The case of all the applicants is that they all were initially appointed on the post of khalasi on different dates and worked in the office of the opposite party for several months as per details given in the statement of claim and have completed more than 240 days of work in their service period, that they have been retrenched on the dates given against them in the above mentioned chart, that the termination of the workmen had been illegal as the post on which the petitioners were working are still in existence and the persons junior to them are still working rather some new appointments have been made even after the termination of all these workmen. The workmen consequently assailed termination on the ground that principle of first come last go have not been observed and that retrenchment compensation has not been paid, in the end they have prayed that they be reinstated with full back wages.

3. The management has contested the application on the ground that the workmen were appointed as casual labour on project in the construction department, hence they did not acquire the status of a temporary employee that the workman Harinarain has put in a total service of 308 days in broken period and that he worked upto 5-3-1982 and thereafter did not turn up for work, thus he left services on his own accord.

4. Shri Ram Lakhan worked on the project for 287 days for a work sanction of which was to expire on 14-4-1982 and the employee fully knew that his services will not be

का.आ. 4239 :—औद्योगिक विवाद अधिनियम,
1947 (1947 का 14) की धारा 17 के अनुसरण में,
केन्द्रीय सरकार, नार्दन शेट्टी, लखनऊ के प्रवर्धन से
सम्बद्ध विवादों और उनके कर्मचारों के बीच, अनुबंध में
निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक
अधिकरण, कानपुर, के पंचाट को प्रकाशित करता है, जो
केन्द्रीय सरकार को 24-11-86 को प्राप्त हुआ था।

required after 14-4-1982, Shri Rajwant worked on project for 397 days and the employee concerned was taken on roll wherein it was clearly mentioned that the sanction on which he was working would expire on 14-4-1982 and there was agreement between the employer and the railway administration that his services would not be required after 14-4-1982.

5. Shri Hridaya Ram workman also worked on project for 268 days on the muster roll no. POH 80 on which he had put his thumb impression wherein it was mentioned that his sanction would expire on 11-2-1982 and it was agreed between the parties that the services of the workmen would not be required after 11-2-1982. Workman Phool Chand worked on project for 270 days on the muster roll sheet BP-16 it was mentioned that the sanction would expire on 14-4-1982 as such it was agreed that his services would not be required after 14-4-1982. In the case of Sarabjeet workman it is admitted that he worked on project for 343 days, his name on the muster sheet no. BP-16. It was mentioned that the sanction would expire on 14-4-1982 on which he had put his thumb impression and it was agreed that his service would not be required after 14-4-1982.

6. Lastly Shri Bhushan Lal who had put in 103 days of work out of which 116 days in the first span 25-7-1981 to 18-12-1981 and in the second span from 28-1-1982 to 2-2-1982 and left the services of his own accord.

6A. The management has further contended that accept workman Shri Harinarain who left the services of his own accord none of the workman attained the temporary status and as such they and as such they are not entitled to any relief. It is further contended that 2 of the workmen left the service of their own accord and for the remaining the management never retrenched their services nor they were terminated illegally. The management has however contended that compensation as required by rules and act have been paid and all the workman have received compensation and as such the case is not maintainable and is liable to be dismissed. In the end it is submitted that as the workmen were working on project as casual labour they are not entitled to any relief.

7. Workmen have filed the record of service as casual labour except workman Ramlakhan. The service card of Harinarain shows that he started working as casual labour from 15-5-79 and in the last span was given employment from 16-1-82 to 17-3-82 but during this span he was absent for 13 days including 15th and 16th March, 1982, the entries supports the workman's contention that in all he worked for about 780 days, workman Sabhajeet's casual labour card show that he entered initially as casual labour on 28-3-81 and in the last span worked upto 14-4-82, the total working approximately about 300 days. In the case of Rajwant Singh he started working from 15-12-80 and worked in all in six spans ending with 14-4-82 which work he started there from 27-3-82 the total working given therein would come to about 322 days. Workman Hridaya Ram started work as casual labour from 30-4-81 and in several spell after working for 51 days in the last spell from 3-2-82 to 14-4-82 his working days come to 306 days. Workman Bhushan Lal started work from 8-10-80 and after working in several spells worked for 125 days from 4-2-82 to 14-6-82 and further in several spell worked about 348 days. Workman Phool Chand working from 25-8-81 to 14-4-82 worked about 260 days in three spells and prior to that period also from 1-5-78 he had worked in three spells for 25 days. Workman Ram Lakhan also filed his casual labour card letter showing that in the last spell he worked upto 14-4-82 and has commenced working on 3-10-78 but counting from last date till 16-3-81 he completed more than 240 days.

8. The management has filed muster roll and pay sheet of workman Sabhajeet and Phool Chandra showing that they were allotted work UTR Alambagh Bypass Line Lucknow on work against sanction no. 63 which sanction was for the period 27-3-82 to 14-4-82 and the pay sheet is for the period 15-4-82 to 15-5-82 in which after their presence on 14-4-82 they are shown as discharged.

9. Similarly in the muster rooll come pay sheet for the period 15-2-82 to 14-3-82 for work of watching store against sanction no. 634 dated 4-2-81, the work of which was to

end on 14-3-82 Hridaya Ram has been shown to have worked till 11-3-82. Muster roll and pay bill filed for the period 15-4-82 to 14-5-82 shows that the Rajwant Singh was absorbed from 14-4-82 and the work on which he was employed was to commence from 27-3-82 to 14-4-82 showing that he was working on sanction no. 636 dated 21-3-82 on allocation on UTR Alambagh Bypass Lucknow. Management has also filed muster roll cum pay sheet of Ram Lakhan for the period 15-4-82 to 14-5-82 showing that the workman was discharged on 14-4-82 while working on UTR Alambagh Bypass Lucknow against sanction no. 37/C. Management has also filed pay sheet of workman Bhushan Lal for the period till 14-3-82 against the sanction of which was for the period 14-1-82 to 14-2-82 against sanction no. 446 Lucknow in which workman worked till 5-2-82 and was absent on 6th to 10th and thereafter it is mentioned in the pay sheet as left the work. Similarly management has also filed attendance cum muster roll of workman Harinarain for the period 15-3-82 to 14-4-82 showing that the workman was working on works sanction no. 37/Lucknow sanctioned on 10-2-82 against allocation of work UTR Alambagh Bypass Line and was present on work till 5th March and was absent thereafter for 3 days and thereafter it is shown as left.

10. In support of its contention the management has examined three witnesses on affidavit. Shri N. C. Saxena is IOW (construction) Bypass Northern Railway Chabagh in the construction department under Sr. Civil Engineer construction N.R. He has stated in his affidavit that the workman were appointed as casual labour on project in the construction department and as such they have not attained the status of a temporary employee. He has admitted that the workman Harinarain has put in 308 days of work in broken spell and according to the muster sheet BP-31, the workman had worked upto 5-3-82 and did not turn up for work and was never discharged by the railway administration B.P. 1 filed by the management on 21-7-84 confirm his deposition. He has deposed that the workman Ramlakhan worked for project for 287 days and the muster serial BP 19 and that it was agreed that the management will not require his services after 14-4-82. The BP Sheet filed also confirm that the workman worked till 14-4-82 and the sanction was from 17-3-82 till 15-4-82. In B.P. No. 19 it is itself written regarding commencement of work DOA as 17-3-82 and DOD. Regarding workman Bhushan Lal he admits that he worked for 122 days but he left employment of his own accord. Regarding Bhushan management has filed BP 17 which shows that the workman worked upto 26-2-82 and there is note appended that while staff observed strike after roll call on 26-2-82 hence marked absent. Regarding Rajwant Singh he has deposed that he worked on project for 297 days and from the muster sheet B.P. 17 it appears as per agreement that he was not required after 14th hence working upto 14th April he was discharged and that the sanction was for period 27-3-82 to 14-4-82 and the workman Rajwant Singh was rightly discharged on 14-4-82. Regarding Hridaya Ram he had deposed that he also worked on project in broken spell for 268 days and the sanction of the work on which he was engaged was to expire on 11-2-82 hence he was rightly discharged on that date. POH-18 filed by the management also confirms that the workman worked upto 11-2-81 for a work which was to commence on 14-12-81 and to end on 11-2-82. Regarding Phool Chandra he admits that he worked on project for 278 days and his sanction was to expire on 14-4-82 regarding which he had agreed by affixing thumb mark to B.P. Sheet 16 and was rightly discharged.

11. In the case of Shri Sabajeet also he testifies that he was working on project and worked till 14-4-82 and was rightly discharged from that date. B.P. 16 filed by the management relates both the workman Sabhajeet and Phool Chandra which shows that both of them worked till 14-4-82 and thereafter were discharged on that date. The sheet also shows that the project work which was to commence on 27-3-82 was to come to end on 14-4-1982. He has denied that any of the workman were retrenched. He has further denied that the management adopted policy of pick and choose.

12. In cross examination he admits that the workman have worked under him also for a couple of days and that

they maintained casual labour card, casual labour register and muster roll cum pay sheet. This later muster cum pay sheet he deposed to have sent to account office where payment made to the employee. For verification of attendance of workman he goes on to depose that they to see pay sheet and casual labour card is also verified from that very register. Regarding Harinarain he deposes that his name was struck off from rolls as he did not come for work continuously for 3 days. He has further deposed that no notice or notice pay or retrenchment compensation is admissible when a workman leaves service of his own accord. He has further testified that on the photo copy of the muster sheet of every workman which he has filed it is very clearly written mentioning the period of his work date of discharge and date of appointment besides that pay cum attendance sheet there is no other agreement. Regarding illiterate workman he deposes that they are verbally told that the working period is so much and this procedure was in the case of workmen who are covered under reference. He admits that they were to be paid compensation and for that they were informed by post but they did not turn up to take the same. He has further deposed that when a casual labour is absent for 3 days no charge sheet is given nor any show cause notice is given under DA rules and work of construction is a project. He further deposes that prior to 1-1-1984 casual labour were not be treated as temporary workman after completion of 120 days of such work.

The next witness is Shri Lalita Prasad a senior clerk in the office of the Senior Accounts Officer Construction. He had brought original regular muster sheet of all the workmen. He deposes that in the construction department casual labours are appointed for definite period of time. On each regular muster sheet sanction no. period of project date of appointment, date of discharge is very clearly written and explained to the individual workman. He has further deposed that if a casual labour absconds for three days or more it is deemed that he had left the services. That the muster sheet filed shows that Shri Bhushan Lal and Harinarain had left the services of their own accord.

In the cross examination he has deposed the retrenchment compensation in the case of Shri Hari Narain has been paid on 30-9-83 and in the case of other workmen the same has been prepared but they did not appear to receive the same on due date. He has however, deposes that in photostat copies filed the thumb impression is not there. In the end he deposes that I can not say if the question of assumed will be apply to the casual labour or not.

Management examined Shri R. S. Pandey on affidavit working as Inspector of Works (Construction) (3) Northern Railway, Lucknow. He too has deposed that some of the workman of this case have worked under him and that in construction organisation all the post from higher rank to lower rank are purely temporary and worked charged post and the workman never achieved temporary status as they were simply casual labour. That in the construction organisation the work of project are performed which are sanctioned for a definite period of time. He too averred that casual labour absents for 3 days or more their names are struck from the muster roll causing a break in continuity of service. He has also averred that in case of Hridaya Ram for the period 15-2-82 to 14-3-82 nothing was paid to him because assumed attendance from 8-2-82 to 11-2-82 had already been paid to him during last period commencing from 15-1-82 to 14-2-82, that he did not work after 11-2-82 as the sanction of the work had expired on 11-2-82. Lastly as regards workman Harinarain he has averred that he absconded from duty after 11-2-82 without information, hence it was deemed that he has left the service of his own accord.

In cross examination he has deposed that to his knowledge workman has not worked 180 days continuously else they would have get scale rate. He has also stated that Ram Lakhan, Rajwant Singh, Hridavanarain, Phool Chand and Sahhajeet were not discharged from their services but they ceased to work as sanction of their work expired on the respective date on which they were shown to have ceased to work. Only in the case of Bhushanlal and Hari

Narain they stopped coming to work even though the sanction for the work was there. He has further stated that no termination letter is required under law and their name was scored off from the date of the work came to an end. He admits that casual labour register is maintained but unless filed it cannot be said that under whom and where and when they worked the record can not be produced. To a court question he deposed that all the workmen were working on project which project was for construction of washing of line. As a general reply he has said that it is not possible that juniors may be retained and seniors are terminated. He states that ex-workers are not called for fresh work but only notice is pasted on notice board in different offices intimating persons retrenched to come for fresh work.

On behalf of the workman Hridaya Ram and Hari Narain gave their affidavit evidence and were cross examined. Hridaya Ram workman had given affidavit testifying the case set out in the claim statement. He has given the date of appointment and date of termination and the total number of working days in a calendar year immediately preceding the date of their termination and that juniors were retained is also stated by this witness in his cross examination. He has named some of juniors giving their date of appointment and that they were still working. He has admitted in cross examination that he had shown that he worked during the period 23-2-82 to 14-4-82 under Inspector of Works (2) Construction, Lucknow. He has further admitted that he had put his thumb impression of his attendance cum muster sheet. He has however, denied that he was told that his work will come to an end on 11-2-82. He admits that he was appointed for construction of washing line and that the work for washing line was for a sanction amount. He further admits that except Harinarain all other working with him on washing line. He further admitted that all the workmen worked with breaks.

The other workman's witness is Harinarain who has also testified the case set out in the claim statement. He has denied that he absented himself of his own accord rather he was not given work after 18-3-82, and deliberately marked absent and that juniors were retained.

In the cross examination he has deposed that he always worked under Inspector of Works Shri Y. P. Gandhi he has admitted that entries made in the casual labour card are correct. He has denied that he was working on project but admits that he gave his thumb mark on pay sheet but has no knowledge what was written therein.

Casual labour is defined under rule 2501 of the Railway Establishment Manual which lays down thus :

- (a) Casual labour refers to labour whose employment is seasonal intermittent, sporadic or extends over short periods. Labour of this kind is normally recruited from the nearer available source. It is not liable to transfer, and the conditions applicable to permanent and temporary staff do not apply to such casual labour.
- (b) Casual labour on railways should be employed only on the following types of cases :
 - (i) Staff paid from contingencies except those retained for more than six months continuously such of those persons who continue to do some work for which they were engaged or other work of the same type for more than six months without a break will be treated as temporary after the expiry of the six months of continuous employment.
 - (ii) Labour on project, irrespective of duration, except those transferred from other temporary or permanent employment.
 - (iii) Seasonal labour who are sanctioned for a specific works of less than six months duration. If such labour is shifted from one work to another of the same type i.e. relaying and the total continuous period of such work at any one time is more than six months duration, they should be

treated as temporary after the expiry of six months of continuous employment. For the purpose of determining the eligibility of labour to be treated as temporary, the critical should be the period of continuous work put in by each individual labour on the same type of work and not the period put in collectively by any particular gang or group of labourers.

Note 1 of the said rule reads as follows :

A project should be taken as construction of new line, major bridges, restoration of dismantled line and open line work is project or not. In deciding widening of tunnels etc., which are completed within a definite time limit. The General Manager/Head of department concerned in consultation with the F & C. A O will decide whether a particular open line work is a project or not. In deciding whether a particular open line work should be treated as a project or not the test to be applied will be whether the work is required for the day to day running of the railway, as distinct from the provision of large scale additional facilities to improve the carrying facility of the railway.

The question to be decided is whether the work on Uttaris Alambagh Bypass line was a project. According to the workman it was simply a procedure of the construction unit which is a permanent unit and not project. No doubt Inspector of Works should take work from the workmen which persons of the construction department and work under the Executive Engineer Construction of the Chief Engineers Department Construction. No doubt construction unit is a permanent unit in the railway which look after and execute both type of work i.e. work required for the day to day running of the railway besides work not directly connected with day to day running of the railway to what provision of large scale of additional facility to improve the capacity of the railway.

In the instant case the workmen were employed for construction of UTR AMG By Pass Line which is work not required for day to day running of the railway but by way of additional facility to improve the carrying facility of the railway and thus the work on which the workman were engaged would be a project. The workman Shri Hradaya Ram though not working as khalasi was engaged for a definite period of 60 days of work as chowkidar for the period 14-12-81 to 11-2-82, and it was on that account that the workman was ceased to work on 11-2-82 as period for which he was engaged has come to an end and that the sanction for the work had finished. Though this workman was also engaged on project being a chowkidar for a temporary period for watching stores at their site where the railway materials to be used to construction of by pass line was stored.

In view of the documents filed and proved by Inspector of Works and also number of witness of the management on the point and held that workmen were employed on project and not as casual labour on open line construction work required for day to day running of the railway, as distinct from the provision of large scale additional facilities to improve the carrying facility of the railway.

In these circumstances and in view of the facts that these workmen were working on project their services were rightly terminated on the day the work finished or from the day they left the work before its completion. In the annexure the date of retrenchment of workman Harinarain is shown as 17-3-82. His own casual labour card shows that he was engaged as casual labour for period 16-1-82 to 17-3-82. R. P. 31 s/n filed by the management shows that the workman Hari Narain worked upto 5th March, 1982. Shri R. S. Pandey Inspector of Works has also deposed that he did not turn up for work and left the service on 5-2-82, though sanction of the work was there. His casual card shows that he was employed for the work upto 17-3-82 but he was absent on 15th and 16th March, 1982. Thus his termination has rightly been shown from 17-3-82 while working on project as the work for which he was engaged ended on 17-3-82, though

he was absent from couple of days before. Bhushan Lal's retrenchment date is 14-6-82 in the reference order, he is being casual labour and his casual labour card shows that he was engaged for period 4-2-82 to 14-6-82, thus he was rightly terminated on that date. As observed earlier his BP Sheet No. 17 as muster-cum-pay sheet shows that he was working on project. Casual labour according to rule 2501 of the Railway Establishment Manual does not gives rights of a temporary staff unless he has completed 180 days of work in the same type of work which period has now been reduced to 120 days but a casual labour working on project never acquires right of a temporary status. Though according to the railway board's circular he may be paid casual monthly rate at the rate of per day deviding with month rate by 1/30.

In these circumstances, the retrenchment of all the workmen on the date shown in the reference order mentioned against their name would be proper and justified as they were all working on project for a definite period not completing 240 days in any one span of 12 months, thus there is no question of treating their retrenchment void ab initio for non compliance of section 25-F of the Industrial Dispute Act. Workmen's representative has been stressed that all the workmen have completed 240 days in one calendar year counting backward from the date of their termination. It must have been so had they not been working on project, as the management has proved that atleast in the last spell they worked in project their termination was justified as they have been retrenched on the day the sanction expired or for the period they were engaged expired. Further even if the last span is left out being work on project there is no evidence that all other work rendered by the workmen regarding which entries are made in the casual labour card was work done not in project but on open line work.

Thus in any view of the matter, the workmen are not entitled to any relief and the action of the railway administration in terminating the services of the workmen from the dates mentioned in the reference is justified resulting that the workmen are not entitled to get any relief.

I. therefore, give my award accordingly.

Let six copies of the award be sent to the Government for its publication.

R. B. SRIVASTAVA, Presiding Officer
[No. L-40011/4/82-D. II(B)]

का.आ. 4240 :— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसंग्रह में, केन्द्रीय सरकार, नार्दर्न रेलवे के प्रबन्धनत्व के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 4240.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, New Delhi, as shown in the Annexure in the industrial dispute between the employers in relation to the management of Northern Railway and their workmen.

BEFORE SHRI G. S. KALRA; PRESIDING OFFICER;
CENTRAL GOVT. INDUSTRIAL TRIBUNAL;

NEW DELHI

I.D. No. 83/81

In the matter of dispute between :

Shri Kalu Ram, 79A/1, Motia Bagh, Railway Colony,
Delhi-110054.

Versus

The Senior Civil Engineer/Special,

Northern Railway, Minto Bridge,
Behind Shankar Market, New Delhi.

APPEARANCES :

Shri Partap Rai—for the workman.
Shri D. R. Seth—for the Management.

AWARD

The Central Government in the Ministry of Labour vide its notification No. L-42012(5)/81-D.I.L.B dated 16 July, 1981 has referred the following Industrial dispute to this Tribunal for adjudication :—

“Whether the action of the Senior Civil Engineer/Special, Northern Railway, Minto Bridge, New Delhi, in terminating the services of Shri Kalu Ram as casual labour with effect from 10-4-1972 without following the provisions of Industrial Disputes Act, 1947 is legal and justified? If not, to what relief of the workman is entitled?”

2. The workman in this case had earlier filed a statement of claim dated 16-3-83 and then filed an amended statement of claim on 28-9-84 and since there is considerable variation between the two statements of claim and it has an important bearing on the decision of this dispute it is considered desirable to advert to both the statement of claim and the respective written statements of the Management.

3. In the earlier statement of claim dated 16-3-83 the workman stated that he was appointed in the Northern Railway Construction Department, New Delhi and he worked continuously in different capacities as under :—

“20-10-70 to 13-3-71—Khalasi under PWI P. N. Kapoor
15-4-71 to 14-11-71 —do—

15-11-71 to 10-4-72—As Store issuer under PWI V. K. Sangar”

During these periods he was given daily rate of pay throughout his service at the rate which was given to him at the time of first appointment. According to extent orders a person appointed as casual labour is to be given scale of pay or 1/30th of the scale of pay plus other allowances admissible under the rules after working continuously for more than six months period. But these orders were not implemented in his case with the result that he remained casual labour throughout and subsequently he was not allowed to attend his duties without any notice while many other persons junior to him were continued in service and their services had since been regularised and they have become permanent employees of the Northern Railway. Had the Railway Board orders been kept in view in this case, his service would also have been regularised. Hence the workman claimed the following reliefs.

- (i) In accordance with the extent orders he should be given scale of pay or 1/30th of the basic pay plus other allowances as admissible under the rules.
- (ii) Once he is given the relief No. 1 then the question of removing him from railway service without proper service does not arise.
- (iii) As no notice was served upon him and there was no complaint about his working, he may be deemed in service from the date he was not allowed to attend his duties.

4 The Management in its written statement raised preliminary objections that there was no dispute between the parties and that the dispute referred is time barred and that the extent orders referred in the claim statement are not applicable to the present case. On merits it was submitted that the workman may be put to strict proof regarding his appointment and the period of service and the job on which he was put. It was further stated that the extent orders came in force w.e.f. 1-6-1974 whereas the workman according to his own assertion had worked till 10-4-1972. The question of giving of notice to the workman did not arise as the extent orders did not apply in his case. Even otherwise, the question of giving notice did not arise as the workman was never

stopped from coming to work and rather the workman himself did not turn up for work and being a casual labour his services automatically came to an end.

5. In the amended claim statement dated 28-9-84 it was stated that the workman was appointed on 20-10-70 as casual khalasi under the PWI Special Patel Nagar and in accordance with the terms of employment of casual labour contained in Chapters 23 and 25 of the Indian Railway Establishment Manual Casual Labour can be engaged by the railways either on projects or works which are intermittent in nature or for short period of less than six months probation and not otherwise. Such casual labour on completion of six months continuous service acquires temporary service status and all other benefits like payment of wages in regular pay scales etc. except regularisation in railway service which depended upon the employee being successful in its screening test. The workman was not appointed on any project or intermittent work of short duration. He worked for the periods 20-10-70 to 13-3-71, 15-4-71 to 14-11-71 and 15-11-71 to 10-4-72 and the gaps in between were the artificial breaks and not due to any fault of the workman but with a view to prevent the workman from acquiring temporary status, whereas the work never finished. The workman completed one years continuous service within the period from 20-10-70 to 20-10-71 and as he completed 240 days service on 18-10-71 he became entitled to the protection of section 25-F and 25-G of the I.D. Act. His services were suddenly terminated w.e.f. 11-4-72 without assigning any reason though the work never finished and employees junior to the workman were retained. There was no notice of one month nor was he given wages for one month in lieu of notice nor was he paid any retrenchment compensation. Hence his termination is void ab initio and the workman sought reinstatement with continuity of service and full back wages.

6. The Management then amended written statement and raised the preliminary objection that the workman has changed the nature of his claim and as such the amended claim application needs to be rejected as he has come out with a completely new case; that after the earlier statement of claim has been filed on 16-3-83, during the proceedings the workman was told that this claim was not maintainable because the period during which he claimed to have worked i.e. 20-10-70 to 14-4-72 he could not avail of the Mian Bhoi Award as the same came into force from 1-6-74 and knowing that his claim application was going to be dismissed he came forward with the amended claim application. In his earlier claim application the workman had clearly stated that he was appointed in the Northern Railway Construction department, New Delhi and remained casual labour throughout his service while in the amended claim application he has stated that he was not appointed on any project. The applicant never made application for amendment of the application and as such Management did not have the opportunity to oppose the application for amendment of the earlier claim petition. The dispute is hopelessly time barred as the workman had himself stated both in his earlier claim application as well as in the amended statement of claim that he worked till 10-4-72 and he had filed his earlier claim application only after a lapse of 11 years on 16-3-83. On merits it was submitted that the workman may be put to strict proof regarding his appointment in period of service and the job on which he was working. The provisions of Chapter 25 and 23 of the Indian Railway Establishment Manual are applicable only for open line workers whereas the workman worked only on construction project. He had not become a temporary employee and as such question of his acquiring temporary status or having rights and privileges of temporary employees does not arise. The workman was appointed on construction project as casual labour and he left the job on his own accord. He was never taken up for re-engagement as casual labour for the last 12 years and there is no rule to call each and every casual labour who had left on their own accord. The claim of continued service after 10-4-72 is not tenable. The services of the workman were never terminated and rather he had stopped coming to work on his own accord. It was denied that the claimant had worked continuously for one year from 20-10-70 to 20-10-71. The question of giving him notice or for payment of wages in lieu of notice or any retrenchment compensation does not arise.

7. The workman filed rejoinder in which he controverted the pleadings of the Management and reiterated his averments. It was further added that the amended claim statement had been filed to bring it within the terms of reference. It was further asserted that the workman was appointed in a regular establishment on open line and not on any project.

8. On going through the file it is seen that no application for amendment of the earlier statement of claim was filed by the workman. On 24-8-84 when the case was fixed for Management evidence the representative of the workman had intimated that he wanted to amend the claim statement and he was given time to make the application by 28-9-84. On 28-9-84 the Presiding Officer happened to be on leave and on the adjourned date 23-11-84 amended claim statement was filed and the case was fixed for written statement on 28-12-84. Therefore, the objection of the Management that the applicant never made any application for amendment and the Management never had a chance to oppose the same has some merit and consequently its objection that the workman has put up an entirely new claim in the amended claim statement can be looked into.

9. In the statement of claim dated 16-3-83 (which is the earlier statement of claim of the workman and by the rule of appreciation of evidence should prevail over his subsequent statement of claim dated 28-9-84), the workman had categorically stated that he has appointed in the Northern Railway in the Construction Department at New Delhi and during the entire period of his service he worked as a casual labour. However, in the subsequent statement of claim dated 28-9-84 he has made a volteface and stated that he was not appointed on any project and that he was appointed in the regular establishment on open line. This change in stance brings about a complete change in the case of the workman and tantamounts to setting up a new case which cannot be allowed. The para 2501 of the Indian Railway Establishment Manual which deals with casual labour is reproduced below :

"2501. Definition :

(a) Casual Labour refers to labour whose employment is seasonal, intermittent, sporadic or extends over short periods. Labour of this kind is normally recruited from the nearest available source. It is not liable to transfer, and the conditions applicable to permanent and temporary staff do not apply to such labour.

(b) The casual labour on railways should be employed only in the following types of cases, namely :—

(i) Staff paid from contingencies except those retained for more than six months continuously : such of those persons who continue to do the same work for which they are engaged or other work of the same type for more than six months without a break will be treated as temporary after the expiry of the six months of continuous employment.

(ii) Labour on projects, irrespective of duration, except those transferred from other temporary or permanent employment.

(iii) Seasonal labour who are sanctioned for specific work of less than six months duration. If such labour is shifted from one work to another of the same type, e.g., relaying and the total continuous period of such work at any one time is more than six months' duration, they should be treated as temporary after the expiry of six months of continuous employment. For the purpose of determining the eligibility of labour to be treated as temporary, the criterion should be the period of continuous work put in by each individual labourer on the same type of work and not the period put in collectively by any particular gang or group of labourers.

NOTE :—1. A project should be taken as construction of new lines, major bridges, restoration of dismantled lines and other major important open line works like doubling, widening of tunnels etc. which are completed within a definite time-limit. The General Manager/Heads of the Departments concerned, in consultation with the F.A. & C.A.O. will decide whether a particular open line work is a 'Project' or not. In deciding whether a particular open line work should be treated as a 'Project' or not the test to be applied will be whether the work is required for the day to day running of the railway, as distinct from the provision of large scale additional facilities to improve the carrying capacity of the railway."

10. The Id. representative of the workman has argued there is no declaration from any authority that the work on which the claimant remained employed was a project. However, no such formal declaration appears to be necessary as is clear from the provisions of para 2501 reproduced above. From Note I under the above para it is clear that only in case whether a particular open line is a project or not that the General Manager/Heads of Departments concerned in consultation with the F.A. & C.A.O. are called upon to take a decision. In the present case the workman himself admits that he was employed in the construction department of the Northern Railway and this is clearly indicating of the fact that he was working on a project and no further declaration is necessary, in his case. Since the very nature of the work on which the claimant was employed was of temporary nature, the workman cannot claim any right to continue in the service. From the statement of claim of the workman himself it is clear that he worked for intermittent periods from 20-10-70 to 13-3-71 and from 15-4-71 to 10-4-72. The break of over one month between 13-3-71 to 15-4-71 cannot be regarded as artificial or deliberate.

11. The workman himself admits that there was no order of termination of his service and has stated that he was not allowed to work w.e.f. 11-4-72. The Management's case is that by the very nature of the work on which the claimant was employed there was no question of issuing any termination order and it is the workman who himself stopped coming for work and the question of the Management giving any notice to the workman did not arise. There appears to be substance in the stand of the Management because it is the casual labour who has to continue to come for work and the Management cannot be expected to pursue the labour or to send notices to the workers who do not report for duty. It is significant to note that the Management vide its letter dated 9/1980 Ex. W-10 had at earliest alleged before the ALC that the claimant was working as casual labour on a project and the claimant never approached in person any officer of the Management for reengagement as casual labour and that the railway department always gives preference to those who are retrenched/left casual labour service card holders. It was further affected that if the claimant intended to be reengaged as project/construction casual labour he may get his name registered with any Construction Unit and he will be called for duty on priority when required. It was also pointed out in this reply that the workman has raised his claim after a lapse of 8 years after not turning up for work. The delay in making the claim is also important factor to be taken into consideration and it goes to support the stand of the Management that he had abandoned services because if his services had been terminated and he was aggrieved he would have raised the dispute immediately after his alleged termination and not used for a period of 8 years. The workman has placed on record certain letters alleged to have been written by him Ex. W2, W3, W5, W6 and W8 alongwith postal receipts Ex. W-4, W-7 and W-9 but these documents are in the nature of self serving evidence and were produced for the first time on 20-4-85 and no explanation is available as to why they were not produced earlier. These documents appear to be of suspicious nature and no reliance is placed on them. The Management has placed on record the statement of wages drawn by the workman Ex. M-1 and it shows that he had been paid wages upto 14-6-72. His statement was proved by MW1 S. D. Solemn and it was accepted un-

challenged. This statement would falsify the workman that he was not provided work after 10-4-72. It would appear from the first claim statement dated 16-3-83 that the workman basing his claim on the extant orders relating to casual labour. The Management has stated that the extant orders which is the Mian Bhai Award came into force from 1-6-74. Since the workman himself states that he had worked upto 10-6-72, therefore, the Mian Bhai Award is not applicable to the workman.

12. Taking into consideration all the facts and circumstances of this case, it appears to be a case of abandonment of service and not of termination and, therefore, the question of the termination of the services of the workman does not arise and the workman is not entitled to any relief. This reference is disposed of accordingly.

Further it is ordered that the requisite number of copies of this Award may be forwarded to the Central Government for necessary action at their end.

September 4, 1986.

G. S. KAIRA, Presiding Officer
[No. L-41012/5/81-D.II(B)]

नई दिल्ली, 11 दिसम्बर, 1986

का.अ. 4241:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, डिवाजनल रेलवे/डो.एस ई. उत्तरा रेलवे के प्रबन्धन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर, के पंचाट की प्रकाशित करती है, जो केन्द्रीय सरकार को 24-11-86 को प्राप्त हुआ था।

New Delhi, the 11th December, 1986

S.O. 4241.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal Kanpur, as shown in the Annexure in the industrial dispute between the employers in relation to the management of Divisional Railway/D.S.E. Northern Railway and their workmen, which was received by the Central Government on the 24th November, 1986.

BEFORE SHRI R. B. SRIVASTAVA, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, KANPUR,
UTTAR PRADESH

Industrial Dispute No. 38 of 1986

Reference No. I-41012/20/85-D. II-B, dated 10-9-86

In the matter of dispute between :

Shri Kaushal Kishore, C/o The Zonal Working President, Uttar Railway Karamchari Union 96/196
Roshan Bajaj Lane, Ganesh Ganj, Lucknow, Uttar Pradesh;

AND

The Divisional Railway Manager, Northern Railway,
Divisional Railway Manager's Office, Hazratganj,
Lucknow, Uttar Pradesh.

The Central Government Ministry of Labour, vide its notification No. L-41012/20/85-D.II(B), dated 10th February, 1986, has referred the following dispute for adjudication to this Tribunal;

Whether the action of the management of DRM Northern Railway in terminating the services of Shri Kaushal Kishore, Labour with effect from 15-6-77 is justified? If not, to what relief is the workman concerned entitled?

AWARD

1. The case of the applicant is that was appointed on casual basis by the opposite party under Inspector of Works Lucknow on 10-11-1975, and as such he completed more than 240 days of work preceding the date of his termination i.e. 15-6-77. The workman during the above period has worked from 10-11-75 to 12-1-76 for 64 days, from 15-1-76 to 12-2-76 for 30 days, 7-3-76 to 5-4-76 for 29 days, 7-4-76 to 4-7-76 for 84 days, 21-7-76 to 14-8-76 for 25 days, 15-9-76 to 13-12-76 for 90 days, 15-12-76 to 14-3-77 for 50 days, 2-5-77 to 27-5-77 for 26 days and lastly from 30-5-77 to 14-6-77 for 15 days. It is further averred by the workman that the service period were admittedly for more than 240 days in one calendar year and the workman's services were terminated without, any notice, notice pay or retrenchment compensation. As this was neither a case of superannuation nor punishment nor medically disability and thus the termination amounted to retrenchment without compliance of section 25F of the ID Act and as such the termination was vide abinitio and illegal and it is prayed that the workman be reinstated with full back wages.

2. The workman has also filed alongwith his claim statement service card sheet issued by the opposite party management wherein the date of birth of the workman is mentioned as 15-8-52 and it further shows that the workman worked in different spell during the period 10-11-75 which obviously shows that the workman worked under the management.

3. The management contested the claim of the applicant on the ground that the workman was appointed as casual labour on 10-1-75 and worked in the same capacity till 14-6-77 in broken periods against sanctioned of different nature of job. It is further averred that due to non-availability of paid vouchers after a lapse of 10 years from now it is not possible to verify as to how many days the petitioner remained absent in authorised or unauthorised manner and the maximum period for which paid vouchers are kept is for 5 years. The management averred that the workman has not completed 240 days in a calendar year and according to his own saying the workman has completed 240 days in three years and further it is wrong to say that the service of the workman were terminated and is amounting to retrenchment without compliance of relevant provisions of the industrial dispute act rather in fact the services of the workman were never terminated, hence the workman is not entitled to any relief claimed in his claim statement.

4. The workman has filed rejoinder and has asserted that he has completed for more than 240 days in a calendar preceding the date of his termination. It is further averred that paid vouchers are not destroyed after 5 years and no limitation is prescribed for raising industrial dispute. The workman has reiterated the allegations made in his claim statement.

5. In support of his allegations the workman has filed his affidavit evidence deposing that he was appointed as casual labour under IOW Alambagh Lucknow on 10-11-1975, and worked till 14-6-1977. He has further deposed that he had completed for more than 240 days of work during the period 15-6-1976 to 14-6-1977 and on 15-6-1977 the services of the workman were terminated by Inspector of Works on verbal instructions and no formal letter of termination was issued to the workman or even on records of the case. He has further deposed that no notice before one month from the date of termination was given to him nor notice pay or retrenchment compensation was given to him and many junior persons were retained in service while the services of the workman were terminated being senior amongst the casual labour. He has also deposed that fresh recruitment were also made by the opposite party without any information to the workman.

6. The management opposite party has filed affidavit evidence of one Shri V. M. Kapoor IOW. He has deposed that the workman worked during the above period as casual worker in broken periods against sanction and in different nature of jobs. He has further deposed that the allegations of the petitioner is falls and frivolous as he never completed 240 days in one calendar year hence is not entitled for bene-

its of the provisions of the industrial dispute act. He has further deposed that due to non availability of paid vouchers it is not possible to ascertain as to how many period applicant was remained absent authorise or unauthorised manner and as the workman has submitted his claim after 7 years fully knowing that the paid vouchers will not be available after 5 years, hence the claim is perfectly barred by time. He has further deposed that every khalasi appointed on casual basis is told when recruited about period of sanction particularly of work against which he is being recruited and in token to that notice his thumb impression is taken in muster roll hence no notice is required to be given before one month of expiry of the sanctioned work. He has further deposed that long absentee of the workman without any claim for job or compensation goes to prove that the petitioner did not burned for further employment.

7. The management witness in his cross examination stated that he seen the figures noted in casual leave card and only period of work sanctioned noted and not the date on which the workman was absent. He has further stated that muster roll cum pay sheet of the period shown in casual labour card has been weeded out as per orders of the railway board dated 10-6-77. He has further stated that besides casual labour card photo copy of which has been filed by workman there is no other record of working of the workman and paper shown to him is sent by Shri B. P. Arya IOW on behalf of the DSE though it does not bear any seal and this paper is marked as Ext. M-1. He has admitted in cross-examination that the workman worked under him. He has further stated that it is wrong to say that the workman worked with Shri D. P. Arya between period 14-6-77 to 21-7-76 and he can not say where and with whom he worked. He further stated that casual labour card it appears that the workman did not work after 14-6-77 in the muster roll cum pay sheet date of termination was always noted, hence there was no need to give any termination notice. On the date of termination there was a seniority list on the notice board and it is permanently affixed, there, hence no notice showing cause of termination was given to the workman. He has further stated that to my knowledge no junior to the workman was retained on the date of termination i.e. on 14-6-77. He has further stated that he will not be able to tell without looking to record if Krishna Kumar, Mohd. Ish-hag and other junior to workman and were retained after the termination of the workman. termination of the workman was sanction wise and not by internal seniority. In the end he stated that no retrenchment compensation was given to the workman, the workman appeared in the witness box and stated that he was appointed on 10-11-1975 under the IOW on the post of Khalasi and was not given continuous work rather other had been employed and there had been break in intervening working period. He has further stated that he had completed 267 days of work in between period 15-6-1976 to 14-6-1977 and that he had calculated these from service book record and have filed photo copy of the service record. I have got originals and can bring on the next date. He has further states that he was ceased to work on 14-6-1977 and since then he is maintaining himself on earning from labour. I get Rs. 12 or 13 per day when I get daily work. He has denied the suggestion of the management that he ever worked as khalasi in railway stores and he did not filed any case in labour Court New Delhi.

5. According to the management in the casual labour card only the period of work sanctioned is noted and not the date on which the workman had actually worked or was absent. The only authentic document for the number of days by workman is muster roll cum pay sheet of casual labour which is weeded out after 5 years as per railway boards order dated 10-6-1977 filed by the management. The management witness has admitted that besides casual labour card there is no other document of working of workman. He has further admitted that document dt. 15-11-1984 shown to him by workmen's representative bears the signatures of Shri D. P. Arya IOW on behalf of EDS, though it does not bear any seal but it is addressed to HLC (Central) Kanpur and appears to have filed there in conciliation proceedings a copy of which was given to the workman also. In this IOW Shri Arya has admitted the particulars of service rendered by the workman Kaushal Kishore under IOW Alambagh. From the figures given therein and counting back words from 14-6-1977 for one year i.e. 15-6-1977 the number of working days would come to more than 240 days. Shri D. P.

Arya had submitted the signed statement before RLC himself admitted that during the period 15-6-1976 to 14-6-1977, the workman had put in a total of 267 days.

6. Thus in view of the provisions of section 25-F of the Industrial Dispute Act, he should not have been retrenched unless he was given one months notice or notice pay and retrenchment compensation as required under that section. Moreover, the workman had worked continuously for more than 120 days counting from 15-9-1976 to 14-3-1977 as sundays and holidays being to be counted as working days and had thus acquired temporary status. In that eventuality also, the IOW should have maintained a register of all temporary workman working under him for purposes of their seniority and if for any reason or for non availability of work the workman had to be ceased to work or terminated, the last man in that list should be terminated. Admittedly this was not done in the instant case, hence it contravened the provisions of section 25-F of the I. D. Act.

7. It has been argued by the representative for the management that even for open line work which are not project sanction is given for different work for which the Inspector of Works employs a casual labour for performing that work within stipulated time and when ever the work sanction wise is completed or minimise the termination is made from that category of sanctioned work only and not other casual labour or temporary labours from other sanctioned work, even though the workman of this different category working under different sanction work who are working under the same IOW. I do not agree with this contention, Section 25-F clearly speaks that when any workman of an industrial establishment is to be retrenched and belongs to a particular category of that establishment the last person employed in that category will be retrenched. Here category is all of casual or temporary workman and not category of different sanction. The railway being the employer in case of a temporary workman in view of rule 2(g)(2) of the Industrial Dispute Central Rules 57, the IOW working under the management and taking work from temporary workers should maintain list of temporary workman and only persons employed in the list should be first retrenched.

8. Thus in any view of the matter there being infringement of section 25-G as well as 25-F of the I. D. Act, the termination had been illegal.

9. The learned representative for the management has also argued that the state and belated claims should be rejected because the workman has come to the Tribunal after about 10 years of his termination. When admittedly the records of employment have weeded out. In this connection it may be mentioned that there is no limitation given under the industrial dispute act, moreover, the Central Government in its wisdom referred the belated claim, hence an award has to be given. In the instant case weeding out of records does not come in picture so much because the workman is in possession of document whereby the management has admitted during the conciliation that the workman had worked for more than 240 days during one spell in a year, hence is entitled to benefit of provisions of the industrial dispute act. Further the management witness has admitted that the works of different sanction under the same Inspector of Works continuous and it is only temporary employees casual employees of one sanction are terminated on completion of work when the sanction of other work continuous. If in the work which is continuing a work was commenced later and then employee recruited later the last man of that sanction should have been terminated and not the workman.

10. Thus in any view of the matter it has to be held that the termination of the workman on 15-6-1977 was not justified and in such case the only relief is that he has to be reinstated in service with full back wages. The only mitigating circumstances would be if he was employed anywhere for gain, the workman has admitted that he had been working as labour and getting Rs. 12 or 13 per day which was just sufficient to maintain himself and his family, such meagre amount can not be called to be employment for gain. An employment of gain is if he is employed in some service getting scale rate, as he was getting in the management's service.

11. In these circumstances, and in view of the discussion made above, I hold that the workman be reinstated in ser-

vice with full back wages as the action of the management in terminating the services of the workman was found unjustified. The result is that the workman will be reinstated in service with full back wages.

12. I, therefore, give my award accordingly.

13. Let six copies of this award be sent to the government for its publication.

R. B. SRIVASTAVA, Presiding Officer.
[No. L-41012/20/85-D. II (B)]

का.आ. 4242 :-औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, सीनियर इलेक्ट्रिकल इंजीनियर कन्स्ट्रक्शन के प्रबन्धतांत से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर, के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-11-86 को प्राप्त हुआ था।

S.O. 4242.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Kanpur, as shown in the Annexure in the industrial dispute between the employers in relation to the management of Senior Electrical Engineer (Construction) and their workmen, which was received by the Central Government on the 24th November, 1986.

BEFORE SHRI R. B. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, KANPUR

Industrial Dispute No. 3 of 1986

Reference No. L-41012/43/85-D.II(B) dated 19-12-85

In the matter of dispute between

Zonal President, Northern Railway Karamchari Union 96/196 Roshan Bajaj Lane, Ganeshtanj, Lucknow, U.P.

AND

The Senior Electrical Engineer (Construction) 5, Old Station Building, Kanpur, U.P.

APPEARANCE :

Shri B. D. Tewari representative for the workman
Shri H. D. Prasad representative for the Management

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-41012 (43)/85.D.II(B), dated 19th December, 1985, referred the following dispute for adjudication to this Tribunal

Whether the action of the management of Senior Electrical Engineer Construction, Kanpur, Northern Railway, Allahabad, in terminating the services of Shri Basant Lal, Wireman cum fitter w.e.f. 24-12-1983, is justified? If not, to what relief is the workman concerned entitled?

2. The case of the workman Basant Lal is that he was a temporary wireman under senior electrical Engineer construction, Northern Railway, Kanpur, since 19-9-78 to 21-11-1983, and from 21-11-83, his services were illegally terminated by Shri Gur Das Singh Sr. Electrical Engineer (Const.), and Shri N. S. Agrawal Sr. Electrical Foreman N. Rly., (Const.), Kanpur when the concerned workman Shri Basant Lal resumed duty on 28-2-84, and he was informed that he has been transferred to Aligarh and since he had failed to join duty at the transferred place i.e. Aligarh by 24-12-83, his services stood terminated w.e.f. 21-11-83, vide Letter No. TRD/C/Aljn/E12(3112) dated 14-12-83. It is further averred that the workman was sick from 21-11-83 and he had informed this fact by a registered letter on 23-11-83, and a telegram was also sent by him on 22-12-83. That a registered notice under section 80 C.P.C. was served on the employer through Kishore Lal Aharwar Advocate Kanpur on 7-3-84. That the termination was obviously made as a punishment for not joining duty at Aligarh by 24-12-83, which was a without any cogent reason and this penal action requiring mandatory duties of issuing a show cause notice and holding enquiry into the allegations and this was not done hence this punishment of termination is worth being set aside being in violation of the principles of natural justice. It is further averred by the workman that even if it is taken to be a termination simpliciter the same is illegal, mala fide and amounts to victimization and thus is void ab initio. No notice, notice-pay and retrenchment compensation were given by the employer opposite party and the junior to the petitioners were retained in service which violated the provisions of section 26G of the Act. In the end it is prayed that the workman be reinstated in service with full back wages.

3. The claim petition of the workman was contested by the opposite party management on the grounds that the workman worked under the Sr. Electrical Foreman Construction Kanpur, though he has admitted before the District Magistrate, Kanpur, that he worked under Electrical Foreman (General) N. R. Kanpur. It is averred that he was actually under Sr. Electrical Foreman Construction, Kanpur and due to deduction of work he was asked to work at Aligarh under Sr. Foreman and was spared by Sr. Electrical Foreman Construction Kanpur on 21-11-83 and a special duty pass was given to him to perform journey immediately to Aligarh, but the workman did not report for duty at the place of his transfer i.e. at Aligarh. He was again informed vide letter dated 14-12-83, to report for duty at Aligarh by 24-12-83, failing which it will be considered that he is no more interested in his job and deemed to have left his services himself but despite this registered notice, the workman never reported at Aligarh or even at Kanpur. Later on a telegram was received at Aligarh on 24-12-83 intimating that he was sick but no sick certificate was submitted by him or received in the office. As the workman did not turn up for duty within stipulated time it is deemed that the petitioner has left the service himself. It is further averred that no notice is required for termination of the service of a casual labour and the petitioner himself did not turn up for duty within stipulated time, the question of termination does not arise. That it would be wrong to say that Sr. Electrical Engineer Construction Northern Railway Kanpur terminated the services of the workman.

man w.c.f. 24-12-83 rather as the petitioner himself did not turn up for duty he himself left the services of the railway.

4. In the instant case there was no question of giving one months notice. Prior to this reference the workman had filed a civil suit in the court of Munsif City, Kanpur, but he workman withdrew that suit. The withdrawal of the suit was without and permission for filing fresh suit, hence the petitioner is not entitled for adjudication on the same cause of action. The management, however, admits that the petitioner was not punished and hence the question of giving a cause or issuing a charge sheet does not arise and further there was no question of any enquiry in the case and in the circumstances of the case, the question of violating the provision of the act does not arise. As the petitioner himself left the service of the railway administration he is not entitled to be reinstated back in the service with full back wages.

5. In the rejoinder it is averred by the workman that the workman's job was non transferable and thereafter termination of the services by way of penalty for not joining duty is prohibitive under the law as well as under the constitution of India.

6. In support of its case the management examined Shri D. S. Prasad on affidavit, dealing assistant in the office of the Sr. Electrical Engineer Construction Northern Railway, Kanpur. He stated that the workman worked from 9-7-68 to 12-1-74 under EFOG N. R. Kanpur under the administrative control of the Sr. DE(G) N. R. Allahabad and that during the period 15-9-76 to 15-6-79, the workman never worked under Sr. Electrical Foreman construction, Kanpur which fact has been admitted by workman in his letter to the District Magistrate. He has proved assertion made in the written statement.

7. In cross examination Shri Prasad stated that it would be wrong to say that the workman was on roll from 16-9-78 as electrical wireman scale rated. He was simply Khalasi from 15-6-79 and was scale rated workman. He admitted that Sr. Electrical Foreman Construction was Shri M. S. Agrawal and has no knowledge that said agrawal was Sr. Electrical Foreman General. He however, admitted that unit of SEFG come under construction division in Kanpur in the year 1982. It may be mentioned here that no document to that effect has been filed by management. The witness has however admitted that the workman was working continuously from 15-6-79 to 21-3-83 and he was directed to go to Aligarh and he further however admitted that in the special duty pass given to the workman it was written transfer. Looking to original of annexure V filed by the workman the witness admitted that was sent to Sr. Elect. Foreman (C) Aligarh. According to him services of the workman was never terminated and he has absented himself till date. He has admitted that the management did not receive any PMC sent by registered post and that the workman never reported with fitness certificate. He has also stated that workman was given spare letter and duty pass, hence there was no question of continuing his name in muster roll at Kanpur and his name is also not in the muster roll at Aligarh, as he never reached there. He admitted that the workman was not given any notice or retrenchment compensa-

tion as he was never terminated nor retrenched. He further admitted that no departmental enquiry was made against the workman.

8. On the other hand workman filed his own affidavit. He has averred that he had worked under Elect. Foreman General Kanpur, under Sr. D.M.E. (G) N.R. from 9-7-68 to 12-1-74 and from 15-9-78 to 14-6-79 and he was with the Sr Electrical Foreman (Const), Kanpur. In support of the same he has filed photo copies of the two letters under which he got materials from Faizabad and Allahabad and they are Ext. W-3, W-4, W-5 and one is dated 10-10-78, for bringing materials from SEFO Allahabad which is paper No. 5 per list dated 28-2-86. It is averred that his services were dispensed with from 4-11-83 as on 17-11-83, he had sent a letter to DCM Allahabad stating that Sr. Electrical Foreman Construction had threatened him to remove from service and that on 23-11-83 he submitted a medical certificate that he is not able to join duty at Aligarh and that the workman had worked for more than 5 years and hence his services can not be terminated by way of penalty for not joining duty within stipulated period, and he was entitled to protection under rules 2511 of the Railway Establishment Manual. On 27-2-84, the workman was declared fit by the doctor and a medical certificate was submitted by the workman on that day alongwith application with Sr. E.F.C. on which Shri Agrawal refuse to give him duty and informed that his services have been terminated as he failed to join duty at Aligarh, from 24-12-83. Thus the workman services were terminated without giving him a show cause notice or due process of DAR. It can not be even a simple termination as no notice pay or retrenchment compensation was given to him.

9. In cross examination he stated that he worked with Sr. SFC from 15-9-79 to 23-11-83 though his name came on the muster roll from 15-6-79. He deposes that prior to 15-6-79 he was working under the instruction of Shri M S Agrawal. He deposes further he was given letter on 10-10-78 to bring materials from Alld. The other two letters were given to him by Shri Agrawal in his own hand writing for bringing materials. He admits that he was given duty pass. He further states that he gave sick memo from 29-11-83 and that he was sent to Aligarh from 21-11-83. He further states that he gave fitness certificate on 28-2-84. He further states that he had been spare later and duty pass which was given to him under pretext that he was required there in connection with a enquiry at Aligarh of Sr. Electrical Engineer Shri Gurdeo Singh. He denied the management's suggestion that it was on account of his transfer that he was given sick memo. He admits that he did not attend the railway doctor and if his medical leave was sanctioned. He further states that he has given fitness certificate to Shri M. S. Agrawal SEF(C), Kanpur, and not to Shri Gurdeo Singh SR Elect. Engineer at Aligarh. He admits that he has still got spare memo and post given on 21-11-83, and no case is pending in the Civil Court, Kanpur.

10. It has been argued that the case is barred by resjudicata as the workman's suit was dismissed from the Civil Court, Kanpur. No doubt principles of Resjudicata applies even in industrial disputes, though sec. (II) of the c.p.c. does not apply. Even on principles the case is not barred by Resjudicata as the Civil

Court was not competent for declaring termination of an industrial workman illegal.

11. It is common ground that the workman had acquired temporary status and was being paid scale rate wages. Even if workman's contention is allowed to prevail and it is deemed that he was relieved from Kanpur and transferred to Aligarh and not joining duty will be of misconduct for which the proper course was to give him a show cause notice, served charge of dereliction of duty and after proper enquiry he should have been punished by punishing authority but nothing has been done and the management directly terminated his services. It is a matter of common knowledge and is based on the principles of natural justice that no one should be condemned unheard and the management in the instant case imposed punishment upon the workman without giving him opportunity of being heard. Thus it can be very safely held that the management acted with malafide intention, and the termination on this count alone is void ab initio. The management has failed to show me any law whereby termination may be brought about by a decding process showing that the services of the workman will be deemed to be terminated if workman fails to join duties by a stipulated date. There was another mode for termination of the service of the workman and it was by way of giving him retrenchment compensation and one months notice or notice pay i.e. complying with the section 25-F of the ID Act which was admittedly not done in the instant case. Further there is nothing on record to show that the workman was the junior most in the cadre of temporary workman at scale rate and his services were terminated. In view of provision of 25G of the I D Act he being the junior most and there being no work for him at Kanpur. Workman has filed the postal registration A/D slip annexure 7 of the affidavit along-with photo copy of the medical certificate showing

that he had intimated the management about his illness on 22-11-83, the workman had also intimated the officer concerned at Aligarh by telegram that he was unable to join duties. In view of the law laid down in Robert De Souza Versus Union of India, S.C. case L&S page 124 para 21 and 22, wherein it is clear that so many months remains as casual labour he is liable for transfer but when he acquires temporary status he becomes liable to provision of section 25ii of the Railway Establishment Manual and is entitled to protection of Disciplinary and appeal rules and he should have been given a show cause notice before termination of his services. It can not be said that the workman left the services of the management himself. If by serving him a notice to join duty by 24-12-83 the workman did not join, it can not be said that his service will have to be deemed terminated as he was not a casual workman. He having acquired temporary status was entitled to be terminated according to Disciplinary and Appeal Rules.

12. Thus in any view of the matter the termination of the workman having been brought about in illegal way neither by way of DA rules or by following the provisions of the ID Act, I, therefore, hold that the action of the management under reference was not justified.

13. The result is that the workman will be reinstated in service with full back wages. I, therefore, give my award accordingly.

Let six copies of this award be sent to the Government for its publication.

R. B. SRIVASTAVA, Presiding Officer
[No. L-41012/43/85-D.II(B)]
HARI SINGH, Desk Officer